

*Indiana Laws, Statutes, &c.*  
**L A W S**

OF THE

**STATE OF INDIANA,**

PASSED AT

**THE CALLED SESSION**

OF THE

**GENERAL ASSEMBLY,**

BEGUN ON THE THIRTEENTH DAY OF NOVEMBER, A. D. 1865.

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**BY AUTHORITY.**

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**INDIANAPOLIS:**  
**SAMUEL M. DOUGLASS, STATE PRINTER.**

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**1866.**

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# L A W S .

AN ACT repealing all general laws now in force for the incorporation of cities, providing for the incorporation of cities, prescribing their powers, rights, and duties, and the manner in which they shall exercise the same, and regulating other matters properly connected therewith, and repealing certain acts therein specified.

[APPROVED DECEMBER 20, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That whenever one-third of the voters of any incorporated town, so far as the number can be estimated, shall petition the Board of Trustees, or Common Council thereof, to be incorporated as a city under this act, such Board of Trustees or Common Council, by an order or resolution to that effect, entered upon their order book, shall direct the marshal, or other officer thereof, by a proper warrant furnishing him with the necessary forms, to take the census of all persons who were residents within the corporate limits of such town, at least forty days anterior to the date of such order: *Provided, however*, that if it shall appear to said Board of Trustees, by the last census of this State, or of the United States, that said town had three thousand inhabitants, said Board or Common Council shall be at liberty to proceed in all respects as though the said census had been taken in the manner provided by this act.

On application of two-thirds of voters of incorporated town to Common Council or Board of Trustees to be incorporated as a city. Said Board or Common Council to have census taken for that purpose.

SEC. 2. Such marshal or other officer, with the concurrence of such board, may appoint assistants, and shall, within sixty days from the time of receiving such warrant, make full returns, under oath, to said board or council, of the resident population in such town as aforesaid.

Marshal or other officer may appoint assistants to take census.

SEC. 3. If the return shall show a population of two thousand persons, or more, the trustees or Common Council, within ten days thereafter, shall publish a notice to the voters of such town, as in other corporation elections, stating, that on a day and at a place therein named, a poll will be opened to determine whether such town or city shall be incorporated as a city.

If returns show population of 2000 inhabitants or more, trustees or council to appoint day to vote on question of incorporation as a city.

Trustees or council to appoint three reputable voters in each ward, one to act as inspector and two as judges, and they to appoint a clerk. Trustees or council to furnish ballot box. Penalty if inspectors, judges, or clerks, or either fail or neglect to serve after appointment and acceptance.

**SEC. 4.** The trustees or council shall appoint three reputable voters in each ward, one to act as inspector, and two as judges of election therein, and the persons thus appointed shall choose a clerk of such election. Such trustees or council shall also procure and deliver to such inspector, at least one day prior to such election, a ballot-box, which shall thereafter be retained for the use of such ward. If such inspector or judges, or either of them, or the clerk, after appointment and acceptance thereof, neglect or refuse to serve, such inspector or clerk shall forfeit and pay, for the use of such city, any sum not exceeding fifty dollars, which shall be recovered in any action at law; and the electors being met on the day appointed, may choose by voice such inspector or judges as may be necessary to organize the board; and the inspector and judges so chosen, may select the clerk.

Such election to be governed as other corporations. Ballots to have "Yes" or "No" thereon. If a majority have "No" on, the consent of voters deemed not given. If a majority have "Yes," deemed as consent of voters for incorporation as city.

**SEC. 5.** Such election shall be governed by the same rules as other corporation elections; and the ballots of the voters shall have thereon the word "Yes," or the word "No;" and if a majority of the ballots given at such election have thereon the word "No," the voters of such town or city shall be deemed not to have consented to its incorporation as a city, and no further proceeding shall be had in relation thereto: but if a majority of such ballots shall have thereon the word "Yes," the inspector shall make a statement showing the number of votes given having the word "Yes," and the number having the word "No" thereon; and such statement shall have attached thereto the affidavit of such trustees or of the mayor of such city, verifying the truth of the same, and within five days after such election, shall be filed in the office of the clerk of the Circuit Court of the proper county. The Clerk shall make a record thereof, for which he shall receive the same fees as are paid him for like services in other cases.

Thereafter town shall be deemed and entitled to all the rights, &c., of an incorporated city. Nothing herein to preclude any person interested from showing that a majority had not agreed to such change.

**SEC. 6.** Such town shall thereafter be deemed an incorporated city, with the power and franchises appertaining thereto; and the record in the office of the clerk, as aforesaid, shall be held in all courts as conclusive evidence of such incorporation in any suit pending therein. But nothing in this act contained shall preclude any person interested, from showing that a majority of the legal voters of any such town or city had not agreed to such change.

Duty of trustees or common council as to filing such statement.

**SEC. 7.** The trustee or Common Council of such town or city, shall, within five days after the filing of such statement, divide the city into not less than three wards; but no ward shall contain less than three hundred inhabitants; and they shall also, within the time aforesaid, cause to be given to the voters thereof, ten days' notice, by publication in one or more newspapers printed in such city or county in which the same is situated, and by posting copies of the same in three public places in such ward, that an election will be held in each



of the several wards on a day and at the places therein named, for the election of the city officers specified in such notice.

SEC. 8. The officers of said city shall consist of a Mayor, two Councilmen from each ward, a City Clerk, Auditor, Treasurer, Civil Engineer, Assessor, Street Commissioner, and Marshal; and, if the Common Council deem it expedient for the best interests of the city, a City Judge and City Attorney. The City Auditor, Assessor, Civil Engineer, and (in case such officer is deemed expedient) the City Attorney, shall be appointed by the Common Council. All such officers elected at any special election shall hold their offices until the next general election, on the first Tuesday in May, and until their successors are elected and qualified. After the first general election, or election by the Common Council, said officers shall respectively hold their offices as follows: the Mayor, Auditor, and Assessor for two years each; and the Clerk, Treasurer, Street Commissioner, and Marshal for two years each: *Provided*, that the Common Council may, in their discretion, dispense with the offices of City Auditor or Street Commissioner, and, in such case, may require the City Clerk to discharge the duties required of the City Auditor, and the Marshal to discharge the duties of the Street Commissioner. The Councilmen shall be chosen by the legal voters of their respective wards, and one Councilman from each ward, to be determined by lot at the first regular meeting after the election, shall hold his office for one year, and the other, to be determined in like manner, shall hold his office two years, and annually thereafter one Councilman shall be elected by the legal voters of each ward, and all of said officers shall hold their respective offices during their respective terms, and until their successors are elected and qualified. No person shall hold the office of Councilman unless he is a resident of the ward from which he is elected, and in case of the removal of any Councilman from the ward from which he was elected, the Common Council shall have power to declare the office vacant, and order a special election to fill such vacancy. That successors of Councilmen now acting, and whose term of office expires in May, 1867, shall be elected for the term of one year, and their successors, and the successors of the Councilmen whose term expire in May, 1869, shall be elected biennially. The City Clerk, Auditor, Treasurer, Engineer, Assessor, Marshal, and Street Commissioner, with the consent of the Common Council, may appoint one or more deputies, when necessary, and the Common Council shall provide for their compensation.

What the officers of the city shall consist of.

Length of time officers elected at special elections to hold office.

After the first general election, length of terms of officers respectively.

Proviso—offices of auditor and street commissioner may be dispensed with.

Councilmen how elected and term of office.

Councilman to be member of ward from which elected.

Vacancies how filled, and term of offices.

Deputies may be appointed by officers of City with consent of Council.

SEC. 9. Before the opening of the polls on the day of such election, the inspector and judges thus appointed, and the clerk, shall each and severally be sworn by an officer

Inspectors, judges and clerk to take oath before entering upon discharge of duty.

Election to be governed as township or other elections.

Duty of inspector and judges on closing polls.

Inspectors of several wards to meet on day following the election at common council room, and their duty after meeting.

Duty of clerk of such municipal corporation.

If any person elected shall not take oath of office within five days after having been notified shall be deemed as having refused to serve, and shall forfeit ten dollars for use of city.

Proviso.

authorized to administer oaths, to the faithful discharge of their respective duties as officers of such election.

SEC. 10. All elections of such cities shall be governed by the laws in force regulating township and other elections, and the voters therein shall have the like qualifications, and be subject to the same restrictions and liabilities.

SEC. 11. When the poll of any such election is closed, the inspector and judges thereof in each of said wards, shall immediately proceed to canvass the votes there given, and shall make out under their hands, a statement specifying the number of votes each person voted for has received, and the office he was designated thereby to fill; and said statement, together with the poll list and one of the tally papers, shall be deposited with the inspector, or if he should be unable to further serve, then with one of the judges elected by such board of election.

SEC. 12. The inspector named in such appointment, if at the first election, or the inspector appointed as hereinafter provided, if at a subsequent election of the several wards, shall, on the day next following the same, meet at the Common Council room, and upon the inspection of the statements aforesaid, determine the persons having the highest number of votes, for each of the several offices voted for, and thereupon shall make and sign a certificate setting forth the names of the persons voted for, and for what offices, the whole number of votes given for each of the several offices, and the person having the highest number therefor, and shall declare the person elected to the same. Such certificate shall be filed with the clerk of the corporation. Should two or more persons have an equal and the highest number of votes for the same office, such board of inspectors shall certify the fact to the trustees or Common Council, as the case may be, who shall immediately give notice, as in other elections, for a new election, specifying the office to be filled thereby, and the ward, if a councilman, in which the poll is to be opened.

SEC. 13. It shall be the duty of the clerk of such municipal corporation, within twenty-four hours after filing the certificate of the board of inspectors in his office, as provided in the preceding section, to give notice of such election either by personal service or by leaving a copy of such notice at his usual place of residence to each and all of the persons elected to fill the said offices.

SEC. 14. Any person thus elected, who shall not, within five days after being notified, by personal service, of the same, take and subscribe the oath of office before some proper officer and file the same with the clerk of such corporation, shall be deemed as having refused to serve, and shall forfeit for the use of such city therefor, the sum of ten dollars: *Provided*, He is not prevented from so doing by sickness or

unavoidable accident; which forfeiture shall be recoverable on complaint filed in the name of the city against the party so failing to serve; and it shall be the duty of the Common Council, by resolution, to declare the office to which such person was elected vacant, and order a special election to fill such vacancy.

Special election to be held.

SEC. 15. The Common Council shall, for every subsequent election, appoint by resolution, an inspector and two judges therefor, in each of the several wards of the city; but the persons thus appointed shall be residents and voters of such ward, and, when convened as a board of election, shall choose the clerk thereof.

Appointment of inspectors, judges, and clerks.

SEC. 16. Vacancies occurring in any manner in any office which by this act is required to be filled by general election, shall be filled by special election ordered by the Common Council, and conducted in the same manner as the general election therefor, and all vacancies occurring in other offices shall be filled by the Common Council, and any person being elected to fill any vacancy shall serve for the unexpired portion of the term of the person whose vacancy he was elected to fill.

Vacancies in office how filled.

SEC. 17. It shall be the duty of the mayor to see that the laws of the State and the by-laws and ordinances of the Common Council, be faithfully executed within such city; he shall be a conservator of the peace, and as such, shall have within the city limits the power conferred upon justices of the peace for that purpose; to exercise supervision over subordinate officers, and to recommend to the Common Council such measures as he deems for the public good; he shall sign all commissions, licenses and permits granted by the Common Council, and he shall perform such other duties as the nature of his office and the interests of the city requires; he shall have the custody of the corporate seal, and may take and certify under the same, the proof and acknowledgment of deeds and other instruments in writing, which shall be good in any court in this State without further authentication; he may also take and certify depositions and affidavits, and the same shall have a like force and effect as if taken by a Notary Public; he shall hold a City Court every day, Sundays excepted, at a place to be furnished by the Common Council; while sitting as such court, he shall have exclusive jurisdiction of all prosecutions for violation of the by-laws and ordinances of the city and township in which such city is situated; he shall have, within the limits of the civil township, or township in which said city is situate, the jurisdiction and powers of a justice of the peace, in all matters civil and criminal arising under the laws of this State, and for crimes and misdemeanors his jurisdiction shall be co-extensive with the county in which such city is situated: *Provided*, That in trials before him, he shall have power to adjudge imprisonment as a part of his sentence, not exceeding thirty days

Powers and duties of Mayor.

in the city or county prison. In all prosecutions in the city judge or Mayor's Court, either party may have a trial by jury, and a change of venue to a justice of the peace in such city, and appeal to a court of competent jurisdiction, under the same restriction, and in the same manner as in a justice's court, except in cases where the mayor has exclusive jurisdiction, no change of venue shall be allowed. The same rule of pleading and practice shall be observed in the city or mayor's court that are in justice's courts. The mayor shall give bond, payable to the State of Indiana, in any penal sum not less than three thousand dollars, to be approved by the Clerk of the Circuit Court, with freehold security, conditioned for the faithful performance of his duties as mayor, and all other duties herein required, and file the same with the clerk of the Circuit Court within the time directed by law for justices of the peace; he shall receive such salary, payable quarterly, as the Common Council may, by resolution, order or direct. All fines and penalties collected by him shall be paid into the city treasury, except when otherwise directed by acts prescribing the duties and powers of justices of the peace. If the Common Council shall deem it expedient for the interest of such city to cause a city judge to be elected, the same shall be done at any general election at which the mayor shall also be elected, and such city judge shall give the like bond as the mayor is herein required to give, and he shall, from and after his due qualification, perform all the judicial duties herein required to be performed by the mayor.

Mayor or city judge shall keep a docket.

SEC. 18. The mayor or city judge shall keep a docket as justices do, and in case of the absence of such mayor or city judge from the city for the space of five days or more, or of inability in consequence of sickness or other cause for a like period, shall, prior to such departure in the first case, and at the expiration of five days in the last case, (if his inability continue,) deposit, or cause to be deposited, his docket with any justice of the peace within said city, and such justice of the peace shall, during such absence or inability, be vested with, and exercise all the judicial powers and authority of said mayor or city judge, and be entitled to his fees and emoluments therefor. The mayor or city judge shall be entitled to the same fees as justices of the peace. In case of vacancy in the office of mayor or city judge, by death, resignation or otherwise, the council shall cause his docket to be placed in the hands of some justice of the peace in said city, who shall act as, and have all the judicial powers and authority of such mayor or city judge, until such vacancy can be supplied by special election, and the official bond of such justice shall embrace all his official acts in such capacity.

Mayor's or City Judge's fees.

Vacancy how filled.

Clerk, his duties, &c.

SEC. 19. The clerk shall have the custody of all books and papers belonging to such municipal corporation; he

shall make record of all proceedings of the Common Council, whose meetings it shall be his duty to attend; he shall countersign and register all licenses and permits, and all other official papers of the Common Council, directing acts to be done or duties performed, and he shall do all other things required by the Common Council and pertaining to his office; copies of papers and transcripts from the records, certified by him under the corporate seal, shall be evidence of the matters therein contained, in all courts of this State, and he shall be entitled to receive therefor, except when otherwise ordered by the Common Council, the same fees that are allowed to the clerk of the Circuit Court for similar services. The Auditor shall examine and settle all accounts and demands chargeable against such municipal corporation, which are not directed to be settled and allowed by some other tribunal or person; and for all such sums of money settled and allowed by himself, such other tribunal or person, or where the same is fixed by law, or by ordinance of the Common Council, he shall issue his orders on the Treasurer of such municipal corporation, payable to the person entitled thereto, which orders shall be numbered progressively, and the number, date, and amount of each, and to whom payable, and the purpose for which drawn, shall, at the time of issuing the same, be entered in a book to be kept for that purpose; he shall keep an accurate account current with the Treasurer of such municipal corporation, and when any person shall deposit with him any receipt given by the treasurer, for money paid into the treasury, such auditor shall register and file such receipt, and charge such treasurer with the amount thereof; he shall annually, between the first Monday of June and the fifteenth of November, make out a duplicate list of taxes, assessed in such incorporated city, in the same manner that duplicate lists of taxes are made out by county auditors, and shall cause a copy of such duplicate list to be delivered to the city treasurer on or before the fifteenth day of November of each year, and in all matters pertaining to the making up of such duplicate tax list, and the assessment of taxes thereon, and in the manner of entering property returned delinquent for taxes, he shall be governed by the laws defining the duties of county auditors, so far as the same may be applicable; and in addition to such annual salary as the Common Council may allow him, he shall receive, for similar services, the same fees which are allowed county auditors.

Certified copies  
of papers, &c.,  
evidence in all  
courts.

Clerk's fees in  
certain cases.

Auditor's du-  
ties.

Auditor's fees.

SEC. 20. The assessor shall, before the first Monday in June in each year, unless otherwise directed by the Common Council, make out a full and fair list and appraisement of all persons and property liable by law to taxation, arranging the names in alphabetical order, and setting opposite each

Duties of asses-  
sors.

Assessor may  
appoint assist-  
ants.

Assessor to  
make return to  
auditor of tax-  
able property.

Duties of street  
commissioner.

Powers and du-  
ties of marshal.

name, in appropriate columns, the real and personal property assessed, with the description and value thereof; he shall make out a separate list of such other property or things as the Common Council shall, in their ordinances, direct to be specifically taxed; said assessment shall be completed at the time above indicated, and return made thereof to the auditor of the city, unless, by an order of the Common Council, further time be given him; he may, with the concurrence of the Common Council, appoint one or more assistants, who shall be sworn in like manner as other officers, to well and faithfully perform the duties thereof. Such assessor and assistants shall have the same powers, and be subject to the same provisions of the same laws, as the assessor of real and personal property for State and county purposes; but if, at any time, any town or city adopting this act shall have no assessor, except the one elected on the first Tuesday in May as aforesaid, then it shall be lawful for the Common Council to appoint an assessor, who shall qualify as if elected, and shall assess for the year, commencing on the first Monday in January next preceding such appointment, and the assessor elected at a regular election as aforesaid, shall assess as herein required for the year, commencing on the first day of January following each election. Such assessor shall, at the time he is required by this act to make return of taxable property to the city auditor, also deliver to him all the statements of property which he shall have received from persons required to list the same, arranged in alphabetical order, corresponding with his list or lists, and the auditor shall carefully preserve the same in his office.

SEC. 21. It shall be the duty of the street commissioner, under the direction of the Common Council, to superintend the streets, alleys, market places, landings, the construction, repairing, cleaning and lighting the same, the building of sewers and drains, the purchase of the necessary implements of labor, and the employment of laborers, and shall perform all the other duties incident to his office.

SEC. 22. The marshal shall be the chief ministerial officer of the corporation, and is hereby invested with the powers of a constable therefor; he shall execute and return all process directed to him by the mayor or city judge, or by the order of the Common Council, and he may serve process directed to him by any justice of the peace in his city, and shall attend the Mayor's or City Judge's Court; such process may be served by him, or his deputies, in any part of the county; he shall suppress all riots, disturbances, and breaches of the peace, and arrest persons guilty of the same, or of any other violation of any criminal or penal law of the State, or of any penal ordinance of the city, and in case he makes any such arrests while the Mayor or City Judge's Court is

not open, he may, without any writ or order of commitment, confine the person or persons so guilty and arrested, in the city watch-house or prison, or county jail, where the same is used by the city as a prison, until the next meeting of the Mayor's or City Judge's Court, when he shall take such person or persons before the same, and make or cause to be made the proper affidavit or complaint against such person or persons, as he should have done if such Mayor's or City Judge's Court had been open at the time such arrest was made: *Provided, however,* that no person or persons, so arrested by such marshal, shall be confined and kept in such watch-house or prison, or county jail, if, at the time of such arrest, or at any time afterwards, such person or persons shall enter into a recognizance, with responsible security, in such reasonable amount of penalty as the nature of the offense and the punishment provided therefor may require, payable to the State of Indiana, if the arrest is made for a violation of the criminal or penal laws of the State, and to the city, if made for a violation of a penal ordinance or by-law of the city, conditioned that such person or persons shall be and appear before such Mayor's or City Judge's Court, at its next sitting, to answer such affidavit or complaint as may be made against him, her, or them, by reason of the offense for which such arrest may have been made, and to abide the order and judgment of such Mayor's or City Judge's Court therein, which bond the said marshal is authorized to take and approve. All such recognizances shall, by such marshal, be filed, with the affidavit or complaint, in such Mayor's or City Judge's Court, which may be made against such person or persons by reason of the offense for which the same may have been taken, and shall have the same force and effect as other recognizances. With the consent of the Common Council, such marshal may appoint one or more deputies, who shall have like powers and perform like duties as such marshal, he being responsible for the faithful discharge of their duties. The chief of police, lieutenants of police, or captain of the watch of every city in this State, shall have the like powers and duties as the marshal of such city, to arrest any person or persons and confine him, her, or them in the city watch-house or prison, or county jail, to take recognizances, and to make affidavits or complaints in the manner prescribed in the preceding section of this act.

Proviso.

Persons arrested may enter into a recognizance.

Marshal may appoint deputies.

Police and captain of the watch their powers and duties.

SEC. 23. The treasurer, in addition to the duties herein-after prescribed, shall receive all moneys belonging to the city, and keep an account of all receipts and expenditures, in such manner as the Common Council shall direct. All moneys paid by him as treasurer shall be drawn in pursuance of an ordinance or order of the Common Council, signed by the mayor or presiding officer of the council, and counter-

Duties of treasurer.

signed by the auditor. He shall exhibit to the Common Council, at least fifteen days before any annual election, and at all other times when required so to do by the Common Council, a full account of receipts and expenditures since last report, and the general condition of the treasury; and it shall be his duty, at all times, to keep the moneys of the city safely deposited, if practicable.

Duties of civil Engineer.

SEC. 24. The civil engineer shall prepare plans, specifications and estimates, when thereunto directed by the Common Council, of proposed public improvements; and shall superintend the opening of streets and the preservation of the true lines thereof, and perform all other duties appertaining to his office, or directed by the Common Council; and such engineer shall have exclusive jurisdiction to survey, determine, establish and perpetuate the lines and corners of all lots, blocks, parcels of land and sub-divisions thereof within the limits of such city. He shall make a record of all such surveys as the county surveyor is now required to do, and such record, or certified copies thereof, shall be evidence in all the courts of the State; and from all such surveys an appeal may be taken as now provided for appeals from surveys made by the county surveyor.

Copies of surveys to be admissible as evidence.

Fees of city attorney.

SEC. 25. The city attorney shall be allowed a docket fee in all cases tried before the mayor or city judge for violations of the city ordinances, or upon appeals from the judgments to the Circuit or Common Pleas Courts, when he appears in person or by deputy, as follows, viz.:

Docket fee before the mayor or city judge, on a plea of guilty, two dollars.

Docket fee before the mayor or city judge, upon a plea of not guilty, four dollars.

Docket fee in cases in the Circuit Court, or Court of Common Pleas, upon appeal on a plea of guilty, two dollars and fifty cents.

Docket fee in cases in the Circuit Court, or Court of Common Pleas, on appeal upon a plea of not guilty, five dollars.

Salary of city attorney.

And he shall be allowed such salary in addition as the Common Council may in their discretion allow. And all other officers, elected or appointed, shall perform the duties incident to their respective offices as required by this act and the by-laws and ordinances of such city, made in pursuance thereof, but in no case shall the city be liable or responsible for any costs or fees of any officers thereof, in any cases tried before the mayor or city judge, when the defendant has been acquitted or the costs not collected.

Officers not herein otherwise required, shall file bond to State of Indiana, amount of bond, and where filed.

SEC. 26. The officers of such city not herein otherwise required, shall, before entering upon the duties of their respective offices, each execute a bond to the State of Indiana, in such penal sums and with such sureties as the Common



mon Council shall direct and approve, and conditioned for the faithful performance of duty, and the payment of all moneys received by them according to law, which bond shall be filed with the clerk; except such clerk's bond, which shall be filed with the treasurer of the city. The bond of the treasurer shall be in double the amount of the estimated tax duplicate of the current year.

SEC. 27. The mayor and common councilmen of said city shall constitute the Common Council; and shall meet within ten days after the annual election, and at such other times as they shall by resolution direct. The mayor shall be the presiding officer of the Common Council, and shall have a casting vote, in all cases, when a tie, but not otherwise. The presiding officer, in the absence of the mayor, shall sign all contracts, licenses, permits and other instruments, as the mayor might do, and they shall have like effect.

Common Council, when to meet, &c.

SEC. 28. The Common Council shall hold stated meetings at least twice in each month, and the mayor or any five councilmen, may call special meetings. A majority of all members to which the wards are entitled shall be a quorum, and the minutes of every such meeting shall be kept by the city clerk, which shall be open to public inspection.

Regular meetings, quorum, minutes, &c.

SEC. 29. At every such first annual meeting the Common Council shall appoint by ballot a chief engineer of the fire department, three commissioners to form a board of health, and, in their discretion, a sealer of weights and measures, and as many supervisors of streets, to act under the direction of the street commissioner, as they may deem necessary, and all other officers which the by-laws may create or require, unless, for good cause, deemed inexpedient at that time; and the Common Council may, by ordinance, prescribe such rules and regulations in addition to those herein contained, for the qualification and official conduct of all city officers as they may deem for the public good, and which shall not be inconsistent with the provisions of this act; and the Common Council may authorize any city officer, except the mayor or city judge, to appoint, with the concurrence of the Common Council, one or more deputies.

Fire department board of health, sealer of weights and measures, and supervisors.

SEC. 30. Each city Common Council shall cause to be provided a corporate seal, around the margin of which shall be the name of such city, and the word "Indiana," and, in the center thereof, such device as the Common Council may direct, and such seal shall be affixed to all instruments or writings needing authentication. The Common Council shall furnish all necessary books and stationery to the officers of such city.

Corporate seal.

SEC. 31. All licenses granted shall be signed by the mayor and attested by the clerk; and all penalties for the violation of any by-law or ordinance shall be prosecuted before the

Licenses and penalties.

mayor or city judge, by the city attorney, or some one in his behalf; and all fines and penalties, when received, shall be paid as directed in the eighteenth section of this act.

Duty of Common Council in relation to streams and ferries.

SEC. 32. The Common Council shall have exclusive power to keep open streams, and preserve, and, if necessary and expedient, change the course thereof, and of rivers passing through or bordering upon the corporate limits of such city; to prevent encroachments or injury to the banks thereof, or the casting into the same of offal, dead animals, logs, or rubbish; and, within the corporate limits of such city, to establish and regulate ferries across such streams and rivers, to license any person or persons, or corporation, to keep such ferry or ferries, and exact a reasonable fee for such license; to designate the kinds of boats to be used at such ferries, and the times and places of landing, and to prescribe the rates of ferriage to be charged at such ferry or ferries; and whenever the bank of such stream or river shall be a public highway, or a public wharf, or commons, within the limits of such city, the Common Council of such city shall have full and exclusive power to authorize the use of any part or parts of such bank as a landing place for such ferry or ferries: *Provided, however,* that no new ferry or ferries shall be thus established within one mile below or above an established ferry, unless the Common Council of such city shall determine, by the votes of two-thirds of the members of such Common Council, that public convenience requires the establishment of such new ferry or ferries: *And provided further,* that if any person is aggrieved by the establishment of such ferry or ferries, or by the action of the Common Council in fixing the rates of ferriage, he shall have the right to appeal to the Circuit Court of the proper county, upon filing bond in the city clerk's office, within thirty days thereafter, payable to such city, with security to be approved by such clerk, and conditioned for the due prosecution of such appeal, and the payment of all costs if judgment be rendered against such appellant; and the city clerk shall cause such bond, with a certified copy of the proceedings of said Common Council, and all of the original papers of the cause, to be filed in the office of the clerk of such Circuit Court, within twenty days thereafter, and such cause shall be docketed for the ensuing term of such court, and further proceedings had and judgment rendered therein, as in other cases of appeal.

Proviso.

Further proviso.

Appeals.

May take down buildings liable to fall.

SEC. 33. They may take down any building or other structure liable to fall, and endangering life or property, if the owner or agent thereof, after five days' notice, fails to repair or remove the same; and the owner of such premises shall be liable to an action for the expenses of the removal of the building or structure.

SEC. 34. They shall have the management and control of the finances of the city, and of all property, real and personal, belonging thereto; and shall have the additional power herein permitted, and may make and publish by-laws and ordinances necessary to enforce the same.

Finances, real and personal property. by. laws and ordinances.

The Common Council shall have power to pass ordinances :

Power to pass ordinances.

*First.* To regulate or prohibit the use of hand organs, or instruments of any annoying character, or other music of itinerant performers, in the streets, lanes, alleys, or public places of the city.

*Second.* To fill up or drain any lot or parcel of ground within such city, or within two miles thereof, whereon water has or may become so stagnant and noxious as to be, in the opinion of such Council, a nuisance, and injurious to the health or comfort of such city, or any part thereof, at the expense of the owner thereof, under such reasonable regulations as the Common Council shall prescribe.

*Third.* To prevent or regulate the use of fire arms, fire works, or other sports, or other things or practice, tending to endanger persons or property.

*Fourth.* To direct the location of tallow chandleries, soap factories, and other buildings or structures, and to prohibit the erection of such buildings, or the continuance of noxious trades or business therein, whenever the health or welfare of the city shall require the same, and for that purpose shall have jurisdiction two miles in every direction from the city limits.

*Fifth.* To establish cemeteries or burial places, within or without such city, and to provide for the sanctity of the dead, and to prohibit interments, except in cemeteries heretofore established by law.

*Sixth.* To establish quarantine regulations.

*Seventh.* To preserve peace and good order; prevent vice and immorality, and quell riots and disorderly assemblages.

*Eighth.* To establish and regulate the police of the city, and may in their discretion authorize the mayor, or a board of police, to be selected by the Common Council, to make all appointments of officers and members of such police, and give such mayor or board of police full power to remove from office any officer or member of such police for neglect of duty or for other good cause.

*Ninth.* To suppress gaming and gaming houses, and houses of ill-fame; to prohibit and destroy instruments and devices of gaming, and restrain fraudulent practices within the said city.

*Tenth.* To compel the owners or occupants of any building or out-house, situate upon any real estate in such city, that is filthy or unwholesome, to abate or cleanse the same, and to clean the streets and alleys adjoining such property,

and for this purpose the Common Council may, by giving two days' notice, require the owner or occupant of any such property to abate such nuisance, or to clean said streets and alleys bordering on such real estate, and upon failure so to do, the Common Council may order the same done by the street commissioner, or other officer or agent, and the expenses thereof shall be a lien upon such real estate, and may be collected by such city in the same manner as assessments for street improvements.

*Eleventh.* To direct the location of markets, or slaughter houses, or powder magazines, and to regulate the same, and for that purpose shall have jurisdiction for two miles in all directions from the city limits.

*Twelfth.* To regulate the use of coaches, hacks, drays and other vehicles for the transportation of passengers, freight or other articles, to or from points within the city, for hire or pay.

*Thirteenth.* To regulate and license all inns, taverns, or other places used or kept for public entertainments; also all shops or other places kept for the sale of articles to be used in and upon the premises.

*Fourteenth.* To regulate and restrain all tables, alleys, machines, devices or places of any kind for sports or games, kept for hire or pay; or to prohibit the use of the same as aforesaid, if deemed expedient, without a license being first obtained therefor, and, if deemed necessary to preserve peace, good order and morality, to prohibit the use of the same as aforesaid, by the infliction of such penalties as this act will permit to be provided for by ordinance.

*Fifteenth.* To regulate and restrain all theatrical and other exhibitions and public shows, for which money is demanded or received; and, if deemed expedient, to prohibit the same, without a license being first obtained therefor.

*Sixteenth.* It is expressly provided that lectures on scientific, historic, benevolent or literary subjects, and the apparatus for the elucidation of the same, and specimens of fine arts, shall not be deemed within the provisions of this act.

*Seventeenth.* To prevent immoderate driving or riding, and cause the person guilty of the same to be stopped thereat by any citizen of such city.

*Eighteenth.* To prevent the encumbering of streets, squares, sidewalks and crossings, with vehicles, or any other substance or materials whatever, interfering with the free use of the same.

*Nineteenth.* To regulate the time and place of bathing in the rivers, or other public waters of said city.

*Twentieth.* To restrain and punish vagrants, mendicants, street beggars, common prostitutes, and their associates.

*Twenty-First.* To impound cattle, horses, swine, fowls, and other animals running at large, and sell the same for the penalty and cost of keeping.

*Twenty-Second.* To prevent the deposit of any unwholesome substance within the city limits, and punish persons guilty of the same, and to remove or destroy putrid animal or vegetable matter therein; if the person occupying the premises fail to do so, upon notice given, the Common Council shall have the power to remove such putrid animal or vegetable matter, the expenses of which removal shall be a lien upon such real estate, and may be collected by such city in the same manner as assessments for street improvements.

*Twenty-Third.* To regulate the ringing of bells and crying of goods, and to restrain hawking and peddling.

*Twenty-Fourth.* To remove or confine persons having infectious or pestilential diseases.

*Twenty-Fifth.* To regulate the keeping of bills of mortality, and to provide penalties for the neglect of any person in relation to the same.

*Twenty-Sixth.* To construct and establish works for furnishing the city with wholesome water, and for that purpose, or for the purpose of drainage of such city may go beyond the city limits, and condemn lands and materials, and exercise full jurisdiction and all necessary power therefor, or the Common Council may authorize any incorporated company, or association, to construct such works, and in such case the city may become part stockholders in any such company or association.

*Twenty-Seventh.* To establish and regulate public pounds.

*Twenty-Eighth.* To construct and establish gas works, or to regulate the establishment thereof by individuals or companies, or to regulate the lighting of streets, public grounds, and buildings, and to provide by ordinance what part, if any, of the expense of lighting any street or alley shall be paid by the owners of lots fronting thereon, and in what manner the same shall be assessed and collected, and to make the same a lien upon real estate.

*Twenty-Ninth.* The Common Council shall, in their by-laws provide for the compensation of all city officers at their first meeting, or within one month after their election, and annually thereafter.

*Thirtieth.* To regulate the management of all public property, markets and market spaces, and sales of meats, fish and vegetables; to prevent, by ordinance, the offense of regrating and forestalling; to appoint market masters and invest them with power to make arrests for the violation of city ordinances in their view, and to make councilmen and all other city officers conservators of the peace within such city, with power to arrest in like manner.

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*Thirty-First.* To regulate and protect fire engines, hose, hooks and ladders.

*Thirty-Second.* To regulate the selling, weighing and measuring of hay, wood and coal, and other articles.

*Thirty-Third.* To authorize a board of public improvements, and empower such board to grant permits to build houses or additions thereto, and prevent the erection of wooden buildings in such parts of the city as the Common Council may determine. The Council may, by ordinance, prevent the erection of wooden buildings in any part or parts of such city.

*Thirty-Fourth.* To erect and establish market houses and market places, engine houses, houses of refuge, pest houses, and hospitals.

*Thirty-Fifth.* To establish and construct wharves, docks, piers and basins, and to regulate landing places, and fix the rates of landing, wharfage and dockage, and provide for the appointment of harbor and wharfmasters and port wardens; all claims for landing, wharfage and dockage accrued to said city, shall be a lien upon the boat, vessel or water craft contracting the same, and after a demand made by the wharfmaster upon the owner, master, clerk or consignee thereof, and refusal of payments may be enforced by attachment before the mayor of such city, when the amount claimed does not exceed one hundred dollars, in the same manner and to the same extent that liens on boats and other water crafts are now enforced under the general laws of this State, and all the proceedings shall be conformable thereto as far as practicable.

*Thirty-Sixth.* To establish a board of health, and to invest it with the necessary power to attain its objects.

*Thirty-Seventh.* To establish stands for hackney coaches, cabs and omnibusses, to enforce the observance and use thereof, and fix the rate and prices for the transportation of persons and property from one part of the city to another.

*Thirty-Eighth.* To regulate or prohibit runners at wharves, steamboat landings, and railroad depots, and stations, and other places.

*Thirty-Ninth.* To regulate the sale of all kinds of property at auction in the streets, stores, shops, or elsewhere in the city, and to license auctioneers and require them to pay a specific license, or to pay a reasonable per cent. on the amount of the sales.

*Fortieth.* To regulate the speed of horses, carriages, locomotives, and other vehicles within the city.

*Forty-First.* To regulate all bridges, culverts, sewers, canal or draw-bridges, and the location thereof, and to maintain, regulate, and collect tolls on any plank-road heretofore built and abandoned by the owners in any such city.

*Forty-Second.* To regulate the building of party walls and partition fences within the limits of said city, and to prescribe by ordinance in what proportion the adjoining owners shall bear the expenses of the same, and in what manner such expenses shall be levied and collected.

*Forty-Third.* To regulate the speed of railroad trains through the city, and, also, to provide, by ordinance, for the security of citizens and others from the running of trains through any city, and to require railroad corporations to observe the same, and, also, to require such corporations to keep clean the gutters and crossings of the streets through and along which their railways may pass.

*Forty-Fourth.* To construct sewers and drains, and have discretionary power to assess the costs thereof in whole or in part, including crossings of streets and alleys, to the owners of property adjacent thereto, and the same shall be a lien on the property in the same manner as provided in cases of street improvements, or order the payment thereof out of the city treasury.

*Forty-Fifth.* To erect a prison or prisons within the limits of such city; and it shall be lawful to imprison therein persons convicted of offenses against the laws of such incorporation, or for offenses against the penal laws of this State, and also persons charged with offenses punishable by indictment or presentment, temporarily, until they can be conveniently removed to the county jails; so far as the same shall be applicable, the law governing county jails shall be the law of such city prison, and in all cases where the county jails are convenient, they may be used for city purposes until a city prison shall be erected.

*Forty-Sixth.* To purchase, hold, or convey real estate for the purpose of constructing public buildings thereon, or using the same for public parks, or other public purpose; and if designed for a public park, cemeteries, water-works, or fairs, such real estate may be purchased and held by such city although lying without the limits of the corporation, and such city may, by ordinance, provide for the protection thereof, and for the manner in which, and the persons by whom the same may be used and occupied, and any conveyance heretofore made of real estate by any such city for any of the purposes aforesaid, lying without the limits of such city, is hereby legalized and confirmed.

*Forty-Seventh.* To regulate the planting, maintaining, and protection of shade trees along the streets and in public grounds, and to compel the owners of lots bordering on any street, or part thereof, to plant, maintain, and protect such trees, and, on failure so to do, to cause the same to be done, and the expenses thereof shall be a lien on such property, and collected in the same manner as street improvements.

Jurisdiction of  
Council.

SEC. 35. For removal and abatement of nuisances, to carry out and enforce sanitary regulations, for the apprehension of disorderly persons, vagrants, common prostitutes and their associates, to exact license money from all persons licensed to retail intoxicating liquors by county or State authority, and to regulate all places where intoxicating liquors are sold to be used on the premises, the Common Council shall have jurisdiction two miles beyond the city limits.

Infirmary for  
poor.

SEC. 36. The City Council shall have power to erect and establish, to maintain and regulate an infirmary for the accommodation of the poor of said city, either within the limits of such city, or within the county in which it may be situated; and for such purpose may purchase and hold any real estate that may be deemed necessary, the management and government of any such infirmary, and the quantity of out-door relief to the poor, under such rules and regulations as the Council may prescribe, may be vested in a board of three directors, to be elected by the City Council, and to hold their office for the term of three years; but it shall be so provided that one of said directors shall be elected annually. The City Council may elect, or the said directors shall appoint an overseer in each ward, who shall perform such duties in respect to the care of the poor, and their removal to said infirmary, as the Council may prescribe.

To enforce the  
observance of  
by-laws.

SEC. 37. The Common Council shall have power to make other by-laws and ordinances, not inconsistent with the laws of this State, and necessary to carry out the objects of the corporation, and to enforce the observance of all by-laws and ordinances, by enacting such penalties for their violation, not exceeding one hundred dollars, for any one offense, which may be recovered in an action at law, with costs, as they may deem right and proper.

Publication of  
by-laws.

SEC. 38. Every by-law imposing a penalty or forfeiture for the violation thereof, shall, before the same shall take effect, be published two weeks, consecutively, in some newspaper printed in the city: *Provided*, That in case of insurrection, riot, pestilence, conflagration, or other impending danger, requiring the immediate operation of such ordinance, it shall take effect as soon as proclamation is made thereof by such Common Council, and posted at five public places in each of the wards of such city: *Provided further*, That the Common Council shall have discretionary power to direct the publication of any ordinance in a daily newspaper, and the publication thereof for one day each in any two consecutive weeks in any daily paper shall be deemed sufficient to allow the same to take effect: *Provided*, That when no paper is published in such city, printed or written copies of such ordinance shall be posted up by the city marshal in at

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least five public places in each ward of such city for two weeks before the taking effect thereof.

SEC. 39. All actions brought to recover any penalty or forfeiture incurred under this act, or ordinances made in pursuance thereof, shall be brought in the corporate name of such city. The process in every such action shall be a warrant, and the person named in such warrant shall be arrested and retained in custody, or under reasonable recognizances until the next sitting of the City Court, and it shall not be necessary to file with the affidavit or complaint a copy of the ordinance or section thereof charged to have been violated, but it shall be sufficient to recite in the affidavit or complaint the number of the section charged to have been violated, with the date of its adoption, nor shall it be necessary to copy any part of the affidavit, complaint, or other pleadings in the record of the cause.

SEC. 40. If the penalty or forfeiture in which judgment is obtained is not paid or replevied, the defendant may be committed, for any period not exceeding thirty days, to the workhouse of such city; or, if such city have no workhouse, then to the county prison of the county in which such city is situated; and, in the latter case, it shall be the duty of the person having charge of such prison to receive such defendant, and obey the judgment of the city or mayor's court, in reference to him or her; and in default of payment or replevy of such judgment and costs, the defendant, unless a female, may be adjudged and required to pay the same by manual labor, in said workhouse, or in the streets, or other public works of said city, under the control of the street commissioner, or marshal of such city; for which labor such defendant shall be allowed, on such judgment and costs, seventy-five cents per day. It shall be the duty of such street commissioner, or marshal, to work such defendant not less than six, nor more than ten hours per day, according to the season, and each evening to return him to the custody of the keeper of such prison or workhouse; and upon the full payment as aforesaid, of said judgment and costs, such defendant shall be fully discharged; and such street commissioner or marshal are hereby authorized and required to perform all the duties herein prescribed, and to use all proper means thereto; and the Common Council are hereby vested with full authority to pass by-laws and ordinances for the purpose of compelling the enforcement of such manual labor by such defendant, by the use of such sufficient force and means as to them may seem right and proper; and the keeper of such prison or workhouse shall receive for the keeping, custody and boarding of said defendant fifty cents per day, to be paid by such city upon the presentation of an itemized account therefor; and he shall receive only one commitment and one

Suits to be brought in corporate name.

May commit to jail or workhouse, and convict to work streets.

discharging fee, and such defendant may at any time replevy and pay such judgment and costs.

May levy and collect a general and specific tax.

SEC. 41. The Common Council shall have power to levy and caused to be assessed and collected in each year, an ad valorem tax of not more than one per centum for general purposes, on all property subject to State and county taxation within such city, and also upon the stocks of all Free Banks, Insurance Companies, and other joint stock companies, doing business within such city. The said tax to be assessed and levied upon the stock of each individual shareholder of said companies and banks, whether such shareholder reside within such city or elsewhere. The cities and incorporated towns through or into which a Railroad may pass, may assess any railroad building, fixtures and machinery connected therewith, within the city or town limits, on the same basis and in the same manner that the like property of natural persons is assessed, and collect the taxes thereon as other taxes are collected; but the rolling machinery used in operating the road shall be deemed to be embodied in the taxes by the mile. And also a specific tax on omnibusses or any carriages and other vehicles used and run for passengers for hire, unless the same be licensed; and on each dog, owned by any resident of such city, of not more than two dollars; and on each bitch, owned by any resident of such city, of not more than five dollars; and also a poll tax, not exceeding fifty cents, on every male inhabitant, sane, and not a pauper, of the age of twenty-one years, and not exceeding fifty years, residing therein: *Provided*, That any incorporated city, having a population exceeding twenty thousand, shall have power to levy and cause to be assessed and collected in each year, an ad valorem tax of not more than one and one-half per centum, for general purposes, on all property within such city returned for taxation by the city assessor, and upon stocks of incorporations as before provided; but notes, bonds or other evidences of debt which are, or may be, in the hands of any resident of such city as guardian of persons not residing therein, or as executor or administrator of the estate of a person who did not reside therein, and in which such guardian, executor or administrator has no beneficial interest, shall not be subject to taxation by such city, and provided that not more than five acres of farming land shall be subject to taxation within such city.

Provided.

Unknown owners.

SEC. 42. When the assessor or his assistants cannot ascertain the name of the owner of any lot or parcel of land, or any person claiming the same, it shall be listed to "owner" unknown; and the sale of such lot or parcel of land, by virtue of any tax assessed thereon, shall be as valid as if assessed to the true owner or claimant thereof.

SEC. 43. The Common Council, together with the auditor and assessor, shall constitute the board of equalization of such city, and shall, within one month after the assessment roll has been returned, at a stated meeting thereof, of which at least two weeks' notice shall be given, hear and decide all complaints in relation thereto, and shall equalize the same as right and justice may require, and shall have the power to equalize the valuations made by such assessor either by adding to or deducting from any valuation made as aforesaid, such sum as to them, or a majority of them, may appear just and equitable. The Common Council shall have power to refer the assessment lists and all complaints in regard to any assessment to a committee of said council, which committee shall sit from day to day and examine such lists and hear and determine such complaints, and shall make report thereon to the Common Council within ten days after the meeting of the board of equalization before mentioned, which report shall be accompanied by a statement of the total amount of the taxables returned by the assessor. The Common Council shall then proceed to fix the amount and rate of tax to be levied on property and polls within such city, and also, as provided in the forty-second section of this act; and the auditor shall have power at any time to correct erroneous assessments that shall be proven and made apparent to him; and the Common Council may at any time order the amount erroneously assessed against and collected from any tax payer to be refunded to him.

Board of equalization of assessments.

SEC. 44. The city auditor shall proceed to make out the tax duplicate for the current year, and on or before the fifteenth day of November of such year shall deliver the same, with a warrant under the corporate seal of said city attached thereto, to the treasurer of such city, directing him that of the goods and chattels of all and every person named in said duplicate, and of all persons whose names may be added thereto by him he shall cause to be made, by distress and sale if necessary, the amount of tax charged against each of said persons named in said duplicate, and make report of his doings in the premises by the third Monday in March next following, and make full return, report and final settlement thereof by the first Monday in August next following.

Tax duplicate and collection of taxes.

SEC. 45. If no goods or chattels can be found, out of which to make the tax, penalties, interest and costs charged against any person named in such duplicate, the treasurer shall sell any lot or land, or so much thereof as may be necessary, listed to such person, to pay the tax with interest, penalties and costs thereon; and the treasurer's certificate to the purchaser shall state for what tax or taxes, interest and penalties, and costs, said lot or parcel of land was sold,

Treasurer may sell lands for taxes, &c.

which certificate shall be *prima facie* evidence of all the facts therein set forth.

Taxes to be a  
lien on property.

SEC. 46. The lien of such incorporated city for all taxes, general or specific, shall attach on all real estate on the first day of January annually, and such lien shall be perpetual for all taxes due from the owner thereof which have heretofore accrued or shall hereafter accrue, with the interest and penalties in each case, until payment; which lien shall in nowise be affected or destroyed by any sale or transfer of any such real estate; all the property, both real and personal, situate in any incorporated city, shall be liable to the payment of all taxes, penalties, interest, and costs charged to the owner thereof in such incorporated city, and no partial payment of any such taxes, penalties, interest, or costs shall discharge or release any part or portion of such property, until the whole be paid; which lien shall in nowise be affected or destroyed by any sale or transfer of any such personal property. All taxes upon real estate shall be a lien thereon to the same extent as a judgment of a court of record of general jurisdiction, and shall have preference to any private charges upon the same; and all taxes upon personal property shall have preference over private claims.

Treasurer need  
not demand  
taxes.

SEC. 47. The treasurer shall not be required, in any instance, to make a demand of taxes from the person charged therewith, but may, in his discretion, do so; and if any person charged with a poll tax, or any tax upon personal property, or any tax upon real estate, shall fail, when called on, to pay the same, together with all interest, penalties, and costs, it shall be lawful for said treasurer to seize the goods and chattels of such defaulter forthwith, and make sale thereof as provided in section fifty-one of this act, to satisfy the same, and should there be a surplus after such sale and payment, he shall pay the same to the said person making such default.

May seize goods  
and chattels of  
defaulters.

Treasurer, in  
certain cases,  
may require  
statement under  
oath.

SEC. 48. The treasurer shall require of each and every person whom the assessor failed to list, a statement of the taxable property, and the value thereof, which shall be given under the same regulations as if furnished the assessor; and for that purpose the treasurer is authorized to administer the necessary oath or affirmation. If such person fail to furnish such statement, the treasurer shall value the same, as the assessor is required to do in like cases.

When and how  
taxes to be col-  
lected by treas-  
urer.

SEC. 49. Immediately on receiving the tax duplicate the city treasurer shall proceed to collect the same, and shall give notice by publication in some newspaper having a general circulation in such city for three successive weeks, stating in such notice the amount of tax charged for general or specific purposes on each one hundred dollars valuation, also, the amount of poll tax, and, also, the day on which the pen-

alty will attach for non-payment of such taxes. In case any person shall refuse or neglect to pay the tax imposed on him, the city treasurer shall, after the third Monday of March, levy the same, together with ten per centum damages, and the costs and charges that may accrue, by distress and sale of the goods and chattels of such person who ought to pay the same, wheresoever the same may be found in the city. The power to levy and collect shall continue in such treasurer after his return and settlement with the city auditor, until the taxes shall be paid, should goods or chattels of the delinquent be found within the city. The said treasurer shall, annually, on the first Monday of August, file with the city auditor schedules of all such delinquent taxes collected by him, verified by oath or affirmation, and shall receipt to the said auditor for the amount collected.

Treasurer shall file with city Auditor schedule of delinquent taxes collected.

SEC. 50. The treasurer shall give public notice of the time and place of sale of all goods and chattels to be sold, at least ten days previous to the day of sale, by written or printed advertisements, to be posted up in at least three public places in the city, where such sale shall be made.

Treasurer to give notice of time and place of sale of property for taxes.

SEC. 51. Such sale shall be at public auction, and no more property shall be sold than sufficient to pay the tax, penalties, interest, costs and charges; and, if convenient, it shall be sold in parcels, and if sold for more than the amount necessary, the surplus shall be returned to the owner thereof.

Such sale to be by auction, &c.

SEC. 52. In selling lots and parcels of land, the treasurer shall offer the least quantity thereof that any bidder will take, and pay the amount of tax and penalty, interest, damages and costs assessed, and he shall make, seal and acknowledge, before some competent authority, a certificate of the land thus sold to such person. Before making such sale, the treasurer shall give notice, not less than twenty days, in a newspaper printed and published in said city, that on a certain day therein named, he will offer for sale the lands and lots on which taxes shall remain unpaid, or so much thereof as shall be necessary to pay said taxes, penalties, interest and all costs and charges made by reason of the failure to pay said taxes. If such city is a county seat, it shall be made at the court house door; if not, it shall be made at the outer door of the city hall, or other place of meeting of the Common Council.

Sale of land for taxes, how and where sold.

SEC. 53. It shall be the duty of the treasurer immediately after the sale of any lot or parcel of land, to make return of the same to the auditor of such city, distinctly stating the lot or parcel of land sold, the name of the purchaser, the day of sale, and the amount of taxes, penalty, interest and costs for which it was sold; and any owner or claimant thereof, his agent or attorney, may redeem the same upon the terms, and in the like manner, as the lands sold for State

Return of sale and redemption.

and county taxes are redeemed by payment to the city treasurer.

Return and settlement of city auditor and treasurer.

SEC. 54. The city auditor and treasurer shall attend at the office of said auditor on the third Monday of March annually, and the treasurer shall then and there make settlement with the auditor for the amount of taxes for which said treasurer is to stand charged, as follows:

*First.* The auditor shall take from the duplicate in the hands of the treasurer, for collection, a list of all such taxes as said treasurer shall have been unable to collect, therein describing the property on which such delinquent taxes are charged, as the property is described on such duplicate, and shall note therein, in a marginal column, the reasons assigned by such treasurer why such taxes could not be collected.

*Second.* Such list shall be signed by the treasurer, and he shall also testify to the correctness thereof, under oath or affirmation, to be administered by the auditor.

*Third.* The auditor shall forthwith record such list of delinquencies in a book to be kept in his office, and deliver copies of the same to the treasurer for collection; and the treasurer shall make return of such collections in the manner provided for in the fiftieth section of this act.

*Fourth.* After deducting the amount of taxes as returned delinquent, and the collection fees allowed the treasurer, from the several taxes charged on the duplicate, in a just and ratiable proportion, the treasurer shall be held liable for the balance.

Compensation of treasurer.

SEC. 55. The treasurer shall be entitled to such allowance as may be made him by the Common Council, and for collections made by distress and sale, and charges for keeping and removing property distrained, he shall be paid the same fees as are paid to county treasurers for like services.

In case of no sale the same to forfeit to city, &c.

SEC. 56. In case of no sale of any lot or parcel of land for want of bidders, the treasurer shall so return to the Common Council, and the said lot or parcel of land shall thereafter be considered as forfeited to such city, to be disposed of as the Common Council shall thereafter, by ordinance, direct, but no disposition shall be made by such Common Council until after the expiration of four years from the date of such forfeiture, and until so disposed of or redeemed such lot or parcel of land shall be continued on the duplicate, charged with all arrearages for which it was so forfeited, and interest and ten per centum damages per annum, and shall be annually assessed and charged with all accruing taxes, penalties and interest, as other lands. Such land shall be annually be offered for sale, with and on the same terms as other delinquent lands, and, until sold for the amount of all arrearages, may be redeemed as provided in section fifty-four, on payment of the same into the city treasury by the owner

Land to be annually offered for sale, &c.

or owners thereof. All sales by the treasurer for delinquent taxes, and the giving of certificates and conveyances therefor, shall be conducted in the like manner as by the county auditors under the general law of the State; but such conveyance shall be made to such purchaser in the corporate name of such city, which certificates and deeds of conveyance shall be *prima facie* evidence of all the facts stated therein.

Sales how conducted, &c.

SEC. 57. No incorporated city under this act shall have power to borrow money or incur any debt or liability, except in the execution of the powers herein expressly granted, unless three-fourths of the resident tax payers shall petition the Common Council to contract such debt or loan; and for any debt contracted in pursuance of any such petition the Common Council shall add to the tax duplicate of such year successively, a levy sufficient to pay the annual interest on such debt or loan, with an addition of not less than five cents on the hundred dollars, to create a sinking fund for the liquidation of the principal thereof, which fund, with all the increase thereof, shall be applied to the payment of such debt, and to no other purpose.

When city may borrow money, &c.

SEC. 58. The Common Council shall have exclusive power over the streets, highways, alleys, and bridges within such city, and may prescribe the height, and manner, and construction of all such bridges, and to lay out, survey, and open new streets and alleys, and straighten, widen, and otherwise alter those already laid out, and to make repairs thereto, and to construct and establish sidewalks, crossings, drains, and sewers. They may cause buildings, structures, or other things in the way of any street or other public improvement, to be taken down, removed, and appropriated, upon the payment of damages, as hereinafter provided; and no person residing in said city shall be required or compelled to work on any road without the city, nor shall any property, lying or being within the city, be taxed for the purpose of working, opening, improving, or repairing any road or bridge without the limits of said city; and the Common Council may exercise all the powers of township trustees, and the street commissioner, under the direction of the Common Council, may perform all the duties, and exercise all the powers of township trustees and road supervisors in reference to a road labor tax of two days by each person liable to work on roads in townships, and shall be governed by the same rules and regulations in reference to the collection and enforcement of the same, or any person so liable to work may be discharged therefrom on the payment of one dollar and fifty cents per diem, provided that the Common Council may, by general ordinance, prescribe the time within which such labor shall be performed.

Laying out and repairing streets

Damages arising under preceding sec. appraised by commissioners.

SEC. 59. There shall be appointed by the Common Council of said city, once in each year, five commissioners, who shall be freeholders of the city, and who shall serve for one year and until their successors are appointed and qualified, to appraise and assess the damages and benefits accruing to the owner of any land or lot through which any street is proposed to be constructed or altered, or any building thereon appropriated, or through which any creek or water course is proposed to be straightened, or of which the course is proposed to be altered, as provided in the preceding section. Such commissioners shall, at the time of their appointment, take and subscribe an oath or affirmation faithfully to perform the duties of such commissioners, which shall be indorsed upon or attached to their appointment, and filed with the clerk of the city. Twenty-one days' notice shall be given such commissioners by the Common Council, through the city clerk, of any appraisement they may require to be made; a like notice shall be given by personal service, or by leaving the same with some person of suitable age, at their reputed place of abode, to each of the owners or agents thereof, of lots or land upon or through which the public improvement or street is proposed to be made. If the owners are unknown, or non-residents, publication of the same, in one or more newspapers of the city, for two weeks, shall be deemed equivalent to such personal service.

Powers and duties of commissioners to assess damages.

SEC. 60. Such commissioners, or a majority of them, shall, at the place and time indicated in such notice, proceed to an examination of the real estate proposed to be appropriated as aforesaid, and shall then and there estimate :

*First.* The value of the land or other property to be appropriated for such improvement.

*Second.* What part thereof, if any, ought to be borne by the city.

*Third.* What real estate, if any, would be benefitted by the improvement, specifying the same in parcels, with the name of the owner, if known, and the proportion of benefits each would receive, and the proportion of damages sustained by each. They shall view the premises and receive any evidence touching the questions before them, and may, for that purpose, administer oaths to witnesses examined in relation thereto. They shall report upon each of the specifications above indicated, and, within ten days thereafter, file the same with the clerk of the city.

Payment of damages.

SEC. 61. When such report is filed, as in the preceding section required, the Common Council, if it accepts the terms of the same, shall direct the treasurer of the city to tender to the owner or owners of such real estate, or their heirs or representatives, the damages awarded by such commissioners, deducting the amount of benefits assessed to such



owner or owners, or if not found within the city, or the award is not accepted, then the same shall be kept by the treasurer as a special deposit, subject to the order of such owner, or his heirs or representatives.

SEC. 62. If the Common Council, within twenty days after the filing of said report, by a vote of two-thirds of its members, determine to make the appropriations of real estate for such improvement, it shall cause an assessment list to be made, by transcribing so much of the report aforesaid as describes the parcels of real estate to be benefitted by the opening, with the name of the owner, if known, and the amount of benefit which each would receive thereby, directing such amount to be assessed upon such parcels of real estate, respectively; the assessment list shall resemble, in form, as nearly as practicable, the tax list, a copy of which shall be retained by the clerk, and the original, delivered to the treasurer, to be collected by him, as other assessments for public improvements are collected.

To make out assessment list, real estate to be benefitted by improvements, &c.

SEC. 63. The Common Council shall, within twenty days from the filing of said report, either accept or reject the terms of the same; and any owner of land, or representative thereof, aggrieved by such report, may appeal therefrom, at any time within thirty days after the filing thereof, to any court having jurisdiction of the same, upon filing the usual bond with the city clerk, for costs; but no such appeal shall prevent any such city from proceeding with said appropriation and improvement, as if no appeal had been taken. No other question shall be determined than the regularity of the proceedings in the suit, and the amount of damages sustained.

If Common Council either accept or reject report, owners of land aggrieved may appeal to any court having jurisdiction, &c.

SEC. 64. When the owner of any such lands or buildings appropriated as aforesaid, shall be an infant, or of unsound mind, no proceedings shall be had affecting the rights of such persons, until a guardian therefor shall be appointed by the court having probate jurisdiction, and such guardian shall have given security to the satisfaction of such court for the faithful performance of the trust; but any proceedings affecting such rights shall only be void to that extent.

In case owner of land be an infant, or of unsound mind, guardian shall be appointed, &c.

SEC. 65. When the owners of two-thirds of the whole line of lots, or parts of lots, (and measuring only the front line of such lots as belong to persons resident in such city,) bordering on any street or alley, consisting of one whole square between any two streets crossing the same, or if the Common Council deem it expedient, for any reasonable distance upon any square or alley, less than one whole square or block, shall petition the Common Council to have the sidewalks graded and paved, or the whole width of the street graded and paved, or for either kind of improvement, or for a full improvement in general, or for lighting such city

Two-thirds of owners petitioning for improving street, alley, or sidewalk, work to be let.

Common council have power to compel owners of lots to repair sidewalks in front of same.

Common council may have sidewalks repaired at expense of owners of lots in certain cases.

City to have lien on lot in such case for costs.

Common council to have power to pass by-laws as to how repairs shall be made.

Plank or gravel walks may be made.

How cost of improvement specified in preceding section to be estimated.

Proviso.

according to the general plan of such improvement in said city, the Common Council may cause the same to be done by contracts, given to the best bidder, after advertising to receive proposals therefor. And the Common Council shall have power to compel the owner or owners of a lot, or a part of a lot, on any street or alley, or upon any part of any street or alley, to repair the sidewalks in front of their respective lots, or parts of lots; and in case the owner or owners of any lot, or part of a lot, or any street or alley, or any part thereof, fail or refuse to repair the sidewalk in front of their lots, the Common Council may cause such repairs to be made by the street commissioner at the cost and expense of the owner or owners of such lot or lots; and the city shall have a lien on such lot or lots for the reimbursement to her of the cost of such improvement, and the Common Council are hereby invested with full powers to pass by-laws and ordinances, providing how and in what manner the repairs shall be made, and in what manner the same shall be assessed and collected from such owner or owners, and the manner in which the lien of the city, for the expense incurred by her, may be enforced against the lot or lots of such owner or owners; *provided*, that any incorporated city, having a population less than ten thousand, may, by a two-thirds vote of all the members of the Common Council, cause, plank or gravel walks of such dimensions as such council may determine, to be constructed, either upon the natural grade of the sidewalks therein, or any modification thereof, established by such council, and the costs and expenses of any such improvement or repairs thereto, shall be a lien upon the real estate fronting thereon, and shall be assessed and collected in the same manner as now prescribed by law for collecting assessments for improving streets, alleys and sidewalks.

SEC. 66. In all contracts specified in the last preceding section, the cost of any such improvement shall be estimated according to the whole length of the street or alley, or the part thereof to be improved per running foot, and the city shall be liable to the contractors for so much thereof only as is occupied by public grounds of the city bordering thereon, and the owners of lots bordering on such streets or alleys, or the part thereof to be improved, shall be liable to the contractor for their proportion of the costs, in the ratio of the first line of the lots owned by them to the whole improved line: *Provided*, that when the owner of any lot shall have made any improvement in front of his lot in accordance with the general plan for the improvement of such street, and under the direction of the city engineer, he shall be entitled to a reasonable allowance therefor, upon his proportion of the cost of such improvement, which reasonable al-

lowance shall be determined by the said engineer: *Provided*, that all contracts made by any city, or by any officer under the authority thereof, for public improvements or otherwise, in the profits whereof any officer of such city shall be interested, directly or indirectly, shall be void.

Certain contracts to be void.

SEC. 67. When any such contract shall be made, or shall have been heretofore made, and shall be in progress of fulfillment, the Common Council shall have power to cause estimates to be made, from time to time, of the amount of work done by the contractor, and to require such amount to be paid to him, deducting a reasonable per centage to secure the completion of the contract, until the whole shall be finished, and to prescribe the time within which the whole shall be completed; and such estimate shall be a lien upon the ground upon which they are assessed, to the same extent that taxes are a lien, and shall have the same preferences over other demands. The Common Council, with the concurrence of two-thirds of the members thereof, may order or cause any or all of the improvements mentioned in the preceding section, and repairs of any kind of streets and alleys to be made in like manner, without such petition, and either charge and cause any or all of the expenses thereof to be assessed and collected, as hereinafter provided when petition is made, or, if it is deemed just and right by the Common Council, to cause such expenses, or any part thereof, to be paid out of the general revenue of the city.

Common council shall have power to cause estimates to be made from time to time of work done by contractor, &c.

Common council may have improvements mentioned in preceding section, made without petition.

SEC. 68. In case any of the owners of lots or parcels of ground, on which such assessments have been made, shall fail or refuse, for the space of twenty days after the date of the estimate, to pay the amount thereof due by such person to such contractor, or some person on his behalf, shall file his affidavit in the clerk's office of said city, stating that the whole or some part of said assessment, showing the amount paid, and the amount due remains unpaid, that the estimate thereof has been duly made, and that the work estimated has been done according to contract. It shall be the duty of the clerk at the next or any subsequent meeting of the Common Council to report the said affidavit to the council, whose duty it shall be to cause a precept to issue for the collection of such assessment, or any unpaid balance thereof, which precept shall be signed by the mayor and attested by the clerk, and sealed with the seal of said city, and shall set forth the name of the person against whom the assessment is made, the description of the lot or land on which it is made, the amount of such assessment and the date of the estimate, which shall be directed to the treasurer of such city, commanding him to make such assessment or unpaid balance thereof, within ten days after receiving such precept of the owner, in whose name such assessment

If owner refuses to pay, amount collected by suit.

proceeding necessary to collect same by contractor.

is made, either personally, or at his last or usual place of residence; or if such owner be unknown, or not a resident of such city, then by publication for three weeks successive in a weekly newspaper, printed and published in the city, briefly setting forth the facts of the estimate, the amount due, that the work has been done as contracted, the name of the person whose property is to be sold, the description of the property, and the date of the order of said precept by the said council, and giving notice that if such assessment is not paid within twenty days after publication, he will proceed to make the same by levy and sale of the lot or land wherein the same is assessed. Any owner of land, or his representatives, aggrieved by such precept, may appeal therefrom within twenty days after such demand or publication, to the Court of Common Pleas of the county wherein such city is situated, upon filing sufficient bond with the clerk of said city, conditioned for the payment of whatever judgment may be rendered against such appellant in said County Court, and such appeal shall stay all proceedings by such treasurer, and the trial of the said appeal shall be conducted as other trials of civil causes are conducted in said court: *Provided*, That no question of fact shall be tried which may arise prior to the making of the contract for the said improvement under the order of council. The clerk shall, upon the filing of said bond, forthwith make out and certify, under his hand and official seal, a full, true, and complete copy of all papers connected, in any way, with the said street improvement, beginning with the order of the council directing the work to be done and contracted for, and including all notices, precepts, orders of council, bonds, and other papers filed in said manner, which transcript shall be in the nature of a complaint, and to which the appellant shall answer upon rule; and in case the court and jury shall find, upon trial, that the proceedings of said officers, subsequent to said order directing the work to be done, are regular, that a contract has been made, that the work has been done, in whole or in part, according to the contract, and that the estimate has been properly made thereon, then said court shall direct the said property to be sold and conveyed by the sheriff thereof, as the said treasurer is hereinafter directed to sell and convey property liable for street improvements: *Provided*, That nothing herein shall be so construed as to prevent any person from obtaining an injunction upon the proceedings prior to the making of any such improvements. If no such appeal shall have been taken as aforesaid, then it shall be the duty of such treasurer, within ten days after the expiration of said twenty days, to lay said precept upon the lot or land therein described, and to sell the same, or so much thereof as may be necessary to pay such assessments

Owner of land may appeal.

Trial, how conducted.  
Proviso.

Duty of clerk in such cases.

Duty of Court trying such cases.

Deed of conveyance to be executed by sheriff.  
Proviso.

Injunction not prevented.

Treasurer's duty in case no appeal is taken, in selling land.

with costs and charges; but before any such sale, he shall give notice of the time and place thereof, by advertising the same for three weeks successively in a newspaper, printed and published nearest to such lot or land, if any such be printed and published within the county wherein such city is situated, and by posting up written or printed notices thereof, in at least three public places in said city, and every such sale shall be by public action, and upon or near the premises, or in the city court room of said city, in the discretion of said treasurer; and no sale of said lot or land previous or subsequent to the date of such estimates, and subsequent to the date of such petition or determination of the Common Council to make such improvement without petition, shall invalidate or affect any sale thereof in pursuance of this act. Upon the sale of any lot or land by virtue of such precept, and the payment of the purchase money, the treasurer, or in case of his death or going out of office, his successor shall execute, acknowledge and deliver to the purchaser a certificate of conveyance for the premises, which shall be valid and effectual to convey all the right, title and interest of any such owner or purchaser from him as aforesaid, except as hereinafter provided, and shall be *prima facie* evidence of all the facts recited therein. In case the purchaser of any real estate under a precept as aforesaid, having paid the purchase money therefor, shall die before a certificate of conveyance, as herein provided, shall have been executed to him, the treasurer shall convey the same to the heirs or devisees of such deceased purchaser. The proceeds of any such sale shall be applied as follows, to-wit: *First*, to the payment of said assessment with interest thereon from the date of such estimate, and all costs accrued thereon by reason of said sale; and *secondly*, the residue of such proceeds shall be paid to the owner, or his or her heirs or representatives of such real estate; or, if unknown, it shall be paid into the city treasury; and such city shall at all times be responsible to such owner, heirs or representatives for such residue. The purchaser, under such precept, shall hold such real estate subject to the lien of the unpaid part of its proportion of the whole cost of the improvement. The treasurer shall be entitled to a commission of five per centum on the first hundred dollars, and three per centum on any excess above that sum; but when the money is paid to him without sale, one-half commission only shall be received by him; for levying on the real estate and advertising the same, he shall receive one dollar; for personal demand of payment, twenty-five cents; for return of the precept, with his doings thereon, one dollar; for making certificate on sale of real estate, one dollar; he shall endorse on said precept the time of receiving the same, and within three months thereafter he shall make return

Proceeds of sale,  
how applied.

Purchaser to  
hold real estate  
subject to lien,  
&c.  
Fees of Treasurer.

Purchaser failing to pay purchase money, subject to certain penalties. Land sold may be redeemed.

Proviso—in case of infants and others.

A part or undivided portion of land sold may be redeemed.

In case land is not redeemed within one year, treasurer to execute to purchaser et al. deed of conveyance.

Councilmen to be fire wardens.

Power of fire wardens.

May regulate construction of chimneys, stoves, boilers, &c.

May procure fire engines, &c.

thereof to the clerk with his proceedings thereon. Any purchaser failing to pay the purchase money, shall be subject to the like penalties and proceedings as purchasers at sheriff's sale are by the laws of this State. The owner of any lot or land sold as aforesaid, or his agent or attorney, heirs or representatives, may redeem the same at any time within one year after the day of sale, by paying to the purchaser, or to the city treasurer for the use of the purchaser, or his heirs or assignees, the sum mentioned in his certificate, and the amount of all subsequent assessments paid by the purchaser, with fifty per cent. on the whole sum, and interest from the date of purchase or time of payment: *Provided*, That infants, idiots, insane persons and *femmes covert* may redeem any such lot or land belonging to them sold for assessment as aforesaid, within one year from the expiration of such disability. Claimants of a part of such land, or of any undivided part of the same, may redeem the whole as other owners may redeem. If such owner, or any person on his behalf, shall fail to redeem such land within one year as aforesaid, at the expiration thereof, and on production of the certificate of purchase, the treasurer shall execute to the purchaser, his heirs or assignees, in the name of the city, a conveyance of the real estate so sold, which shall vest in the grantee an absolute estate in fee simple, subject, however, to all claims which the city may have thereon for assessments, or liens, or incumbrances. Such certificate and final conveyance shall resemble, as nearly as may be, the certificate and conveyance for tax sales, and be *prima facie* evidence of all the facts recited therein.

SEC. 69. The councilmen, by virtue of their offices, shall be fire wardens, or the Common Council may appoint one or more fire wardens; and all fire wardens shall have power, at all reasonable hours, to enter into and examine all dwellings, out-houses, lots and yards, in their respective wards, or in said city, to inspect all places wherein fire is used, and to ascertain how ashes are kept and disposed of.

SEC. 70. The Common Council shall have power to regulate the construction of chimneys, hearths, ovens, the erection of stoves and stove-pipes, boilers, and apparatus used in manufactories, and in buildings, and cause the same to be removed or made secure when considered dangerous; to compel the owners and occupants of houses and other buildings, to make scuttles in the roof thereof, and stairs or ladders leading to the same.

SEC. 71. The Common Council may procure fire engines, and all other apparatus necessary for the extinguishment of fires, and have the charge and control of the same, and shall provide engine and other houses for their preservation and security; shall organize, from reputable citizens, fire and

hook and ladder companies, and companies auxiliary thereto, and make rules for their government and regulation, with such penalties for neglect and misconduct as shall be deemed proper. They may remove members of such companies and appoint others in their stead.

SEC. 72. The chief engineer shall have the superintendence of the fire department. He shall see that all apparatus for the extinguishment of fires, belonging to the city, is kept in proper order, and from time to time report to the Common Council, the condition of the same, and the repairs or additions thereto to render the department efficient. He shall appoint a first and second assistant engineer, with the advice and consent of the Common Council, who shall act under his directions. Said engineer and assistants, when clothed with their proper badges, shall have authority to require any person present, and not attached to any fire company, to work in extinguishing the fire, or in aiding to save property from destruction or injury, in such places and in such manner as the said engineer or assistants shall direct, and to order all bystanders, who are unemployed, or whose assistance is useless, to remove to such distance as the said engineer or assistants may prescribe. Said engineer and assistants shall have all the power of police officers during the continuance of a fire, to suppress disturbances, and to arrest any person, who may commit any breach of the peace, or any depredation or injury to the property of another, or who shall refuse to obey any order or direction lawfully given by said engineer or his assistants, and to conduct the offender before the mayor, or other proper magistrate, or, if necessary, to commit him to the county prison or jail until a hearing can be had.

Chief engineer, his duty and powers.

SEC. 73. The engineer and assistants of the fire departments, fire wardens and firemen, and members of all other auxiliary companies to the fire department, established by the Common Council, shall have their names registered with the clerk of the city, and his certificate of such registry shall exempt such persons, for the current year, from serving on juries in all courts, and in the militia, except in case of war, invasion or insurrection.

Engineer, assistants, &c., to have their names registered.

SEC. 74. When any building in the city is on fire, or any building adjacent thereto is liable to take and convey fire to other buildings, to the great destruction of property, it shall be lawful for the chief engineer, or engineer acting as such, with the concurrence of the mayor or any five councilmen, to take down, blow up, or destroy the same, and no action shall be maintained against any person therefor; but the person owning or having an interest in such building, may, within three months thereafter, apply, in writing, to the Common Council to assess the damages sustained thereby, and the Common Council shall appoint three reputable freehold-

In case of fire, building may be blown up, and amount of damages therefor assessed.

ers to determine the amount of damages done to the property of the complainant by the destruction of such building. Such assessment shall be made under oath, and subscribed by the person making the same, and filed with the clerk of the city within ten days from the date of their appointment; but the complainant or corporation may, within twenty days thereafter, appeal therefrom to the Circuit or Common Pleas Court of the proper county. The damages awarded by the Common Council, or by the judgment of such court, shall be added to the next annual levy, and collected with the general tax, and paid over to such claimant.

By-laws to be recorded and signed.

SEC. 75. All by-laws and ordinances shall, within a reasonable time after their passage, be recorded in a book kept for that purpose, and shall be signed by the presiding officer of the city, and attested by the clerk. On the passage or adoption of any by-laws, ordinances, or resolution, the yeas and nays shall be taken and entered on the record.

Pay of officers.

SEC. 76. The Common Council shall, in their by-laws, provide for the compensation and pay of all officers of such city, where any is given.

New wards how created.

SEC. 77. Whenever a petition, signed by thirty or more freeholders, is presented to the Common Council, praying for the creation of a new and additional ward, and such petitioners are residents of, and shall have freehold within the limits of the proposed ward, and have attached thereto a roll containing an enumeration of the inhabitants thereof, verified by affidavit, such council, if they find that the proposed ward has the requisite population, and that the petition is genuine, shall submit the question to the voters of the city, at the next bi-annual election, by publishing the proposition in the general notice of elections, and the question shall be [decided by] ballot, "Yes" or "No," as is provided in section six of this act, in relation to the incorporation of cities.

Cities now incorporated may organize under this act.

SEC. 78. Any city heretofore incorporated under a law of this State, may, by a resolution of the Common Council, adopted by a majority vote thereof, and entered upon their record book, become a municipal corporation under this act; the same shall be deemed a surrender of the charter of such city with all the rights and franchises therein contained, and no such city shall be entitled to any provisions of this act, without adopting the whole act.

No right, prosecution or suit, to be affected by such surrender.

SEC. 79. No rights acquired, or liabilities incurred, in favor of or against the city, and no suit or prosecution of any kind pending, shall be affected by the surrender thereof, as provided in the preceding section, but the same shall remain and be in progress, as if no change had been made; and all property, real and personal, of any kind whatever, belonging to any town or city before its acceptance of this act, shall be and remain the property of such city from and after its



adoption of this act. Cities shall, in all cases, be liable to pay interest on their orders or other liabilities, payable on demand, from and after such demand, which shall be endorsed on the same by the treasurer when presented.

SEC. 80. For the purpose of creating a sinking fund for the gradual extinguishment of the bonds and funded debt of any city coming under this act of incorporation, the Common Council thereof, shall, annually, levy and collect, in addition to other taxes herein provided, not less than half a mill on the dollar upon the taxable property in such city, which shall be paid into the treasury and applied, by direction of the Common Council, to the extinguishment of the bonds and debts aforesaid, and to no other purpose whatever. There shall also be levied and collected, annually, an additional tax to pay the whole interest of the public debt due from said city.

SEC. 81. Loans may be made by a vote of two-thirds of the Common Council, in anticipation of the revenue of the current and following year, and payable within that period; but the aggregate amount of such loan in any fiscal year, shall not exceed the levy and tax authorized by this act for municipal expenses for the same year.

SEC. 82. Whenever there shall be, or may have been, lots laid off and platted adjoining such city, and a record of the same is made in the recorder's office, in the proper county, the Common Council may, by a resolution of the board, extend the boundary of such city, so as to include such lots; and the lots thus annexed shall thereafter form a part of such city, and be within the jurisdiction of the same. The Common Council shall, immediately thereafter, file a copy of such resolution, defining the metes and boundaries of such addition, in the office of the recorder aforesaid, which shall be recorded.

SEC. 83. The limits of any city may be extended over any lands or contiguous territory by the consent of the owner thereof in writing, and a resolution of the Common Council passed by a two-thirds vote extending the limits of such city over such lands or territory, which written consent and resolution shall be entered at length in the records of such city; and the Common Council shall cause a certified copy of both to be recorded in the recorder's office of the proper county. If any city shall desire to annex contiguous territory, not laid off in lots, and to the annexation of which the owner will not give consent, the Common Council shall present to the board of county commissioners a petition, setting forth the reasons for such annexation, and shall, at the same time, present to such board, an accurate description, by metes and bounds, accompanied with a plat, of the lands or territory proposed or desired to be annexed to such city. The Com-

Sinking fund.

Loans, how and when made.

City limits may be extended.

Contiguous territory may be annexed—how done.

men Council shall give thirty days' notice by publication in some newspaper of the city, of the intended petition, describing in such notice the territory sought to be annexed.

Proceedings of  
county commis-  
sioners upon  
petition.

Common council  
shall have power  
to vacate lots,  
alleys, &c.

Street may be  
vacated by city  
council.

Officers of any  
city coming un-  
der the provi-  
sions of this act  
shall continue in  
office until suc-  
cessors are elect-  
ed, &c.

Proviso.

All by-laws, &c.,  
not inconsistent  
with this act, to  
remain in force.

Members of  
Common Coun-  
cil may be ex-  
pelled.

SEC. 84. The board of county commissioners, upon the reception of such petition, shall consider the same, and shall hear the testimony offered for or against such annexation; and if, after inspection of the map and of all the proceedings had in the case, such board is of the opinion that the prayer of the petition should be granted, it shall cause an entry to be made in the order book, specifying the territory annexed, with the boundaries of the same, according to the survey, and they shall cause an attested copy of entry to be filed with the recorder of such county, which shall be duly recorded in his office, and which shall be conclusive evidence of such annexation, in all courts of this State. The Common Council shall have the same power to vacate any lot, street, alley, common, public square, or part thereof, in any city which the board of county commissioners now have in reference to towns, and all the proceedings necessary to effect any such vacation, shall conform, as nearly as the same are applicable, to those now prescribed for such vacation in reference to towns: *Provided*, that twenty days' notice of the pendency of any such petition shall be sufficient; *and provided further*, that whenever, in any incorporated city in this State, it shall so happen that such city shall hold within such city, for the purposes of a public park, or square, or public schools, two tracts of land, situated on opposite sides of a public street, the Common Council of such city shall have the power, by an ordinance adopted by not less than two-thirds of the councilmen of such city, to vacate so much of said street as lies between the said tracts of land, in order that the same may be united as one tract, and such part of said street so vacated shall be deemed and held to be a part of said tract, for the same uses and purposes.

SEC. 85. Officers of any city, coming under this act, shall remain and continue in their respective offices, subject to the provisions of this act, and perform the duties herein required, until the expiration of the term for which they were elected, and until their successors are chosen and qualified, under the oaths of office already taken, and under the official bonds already filed: *Provided*, that this section shall not extend to any office or officer not recognized by this act. All by-laws, ordinances and regulations, not inconsistent with this act, shall remain and continue in full force until altered or repealed by the Common Council of such city.

SEC. 86. Any member of the Common Council may be expelled or removed from office by a two-thirds vote of the whole number elected, but not a second time for the same offense. Any officer of such municipal corporation, whether

elected or appointed, may be removed by a like vote. The Common Council shall make provision in their by-laws or ordinances, as to the mode in which charges shall be preferred, and a hearing of the same had.

SEC. 87. Whenever any suit shall be instituted by such city, it shall not be necessary to aver its corporate organization, or the publication of its by-laws or ordinances, unless the same is contradicted by affidavit.

In suits, not necessary to aver its corporate organization.

SEC. 88. In those incorporated towns which have a Common Council instead of a Board of Trustees in their organization, the duties of this act required to be performed by the Board of Trustees, shall be performed by the Common Council: *Provided*, That this act shall be in force from and after its passage, in all the cities which have previous thereto been organized and acting under the several acts hereby repealed, without any further acceptance or proceedings on the part of any such city.

Common Council to perform duty of Board of Trustees.

SEC. 89. In all prosecutions against any railroad or other incorporated company for the violation of any ordinance of the Common Council of any city, a summons may issue against the company and may be served on the President, Superintendent, Secretary, or Treasurer of the Company, and upon the trial of the cause judgment may be rendered against the Railroad Company for such penalty as may be adjudged, or the conductor or other agents of the company, guilty of the violation, may be arrested by warrant, and may be proceeded against personally as in other cases.

Summons how issued in prosecutions against railroad companies or other incorporated companies.

Judgment may be rendered against railroad company.

Conductors, or other agents may be arrested.

SEC. 90. The persons now in office in the several cities incorporated under the laws by this act repealed, shall serve till the expiration of the terms for which they were severally elected, and all acts done, all rights accrued, and all liabilities incurred by any city, or the officers thereof, under the acts hereby repealed, shall remain valid, as if said acts had not been repealed, and all regulations, by-laws and ordinances in force not inconsistent with this act, shall continue in force until modified or repealed by the Common Council of such city.

Persons now in office to serve until expiration of terms.

SEC. 91. Nothing in the act approved March 9th, 1857, entitled "An act to repeal all general laws now in force for the incorporation of cities, and to provide for the incorporation of cities, prescribe their powers and rights, and the manner in which they shall exercise the same, and to regulate such other matters as properly pertain thereto," shall be deemed or construed to have repealed an act, entitled "An act to enable the Common Council of the several incorporated cities of this State, to prescribe by ordinance the time within which the annual assessment for city purposes shall be made, and the roll thereof returned, and the time within which the city tax roll or duplicate shall be made and delivered to the

Nothing in act approved March 9, 1857, to be deemed or construed to repealed act approved March 7, 1857, so far as the provisions of said act relate to cities operating &c.

collecting officers; and also the time within which such collecting officers shall make their collections and returns," approved March 7th, 1857, so far as the provisions of said act relate to cities operating under special acts of incorporation, nor shall anything in this act be construed to repeal said act of March 7th, 1857, so far as it applies to cities operating under such special charters.

cts repealed.

SEC. 92. That an act entitled "An act to repeal all general laws now in force for the incorporation of cities, and to provide for the incorporation of cities, prescribe their powers and rights, and the manner in which they shall exercise the same, and to regulate such other matter as properly pertain thereto," approved March the 9th, 1857, and the several acts amendatory thereof, and supplemental thereto, be and the same are hereby repealed.

Levy of taxes  
heretofore  
made, legalized.

SEC. 93. All levies of taxes heretofore made by any incorporated city in this State, whether the assessments have been made by the city assessor, or copied from the assessments for State and county revenue, be and the same are hereby legalized; and the incorporation of all cities now operating under the laws hereby repealed, shall be and the same is hereby legalized, whether such incorporation was regularly obtained or not.

Cities heretofore  
incorporated to  
remain municipal  
incorporations.  
Emergency de-  
clared-

SEC. 94. Cities that have heretofore availed themselves of the provisions of the general law of this State for the incorporation of cities, shall be and remain municipal corporations under this act, and inasmuch as it is important that the cities incorporated in this State, should be enabled, at the earliest possible period, to enjoy and avail themselves of the provisions of this act, it is hereby declared that an emergency exists, requiring the immediate taking effect of this act, and the same shall, therefore, be in force from and after its passage.

## CHAPTER II.

AN ACT to provide for the periodical enumeration of the white male inhabitants of this State, over the age of twenty-one years, to prescribe the duties and fix the compensation of officers in relation thereto; and, also, to prescribe the penalties for the violation of official duty in connection with said enumerations, as well as the manner in, and the Courts by which said penalties shall be enforced.

[APPROVED DECEMBER 21, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That in the year eighteen hundred and sixty-six, and again in the year eighteen hundred and seventy-one, and at the end of each successive period of six years, after the said last mentioned year, an enumeration of the white male inhabitants, over the age of twenty-one years, of this State, shall be made in obedience to the requirements of the Constitution, and according to the provisions herein-after contained.

When enumeration of white male inhabitants over 21 years of age to be made.

SEC. 2. The Township Trustee of each township of the several counties in the State is charged with the duty of making said enumerations, and shall, at the times mentioned in the first section of this act, respectively ascertain the name and age of every white male inhabitant over the age of twenty-one years, residing, at the time of making such enumerations respectively, within the bounds of his township, and shall write, or cause to be written, said names in a book or books to be provided for the purpose, setting opposite to each name the age of the person, as nearly as the same can be ascertained, and shall number said names in numerical order, as they are written down in said book or books.

Township Trustee to make enumeration within their respective townships.

SEC. 3. The said Township Trustees shall perform the duties required of them in the foregoing sections, between the first day of January and the first day of July of each year in which an enumeration is provided for in the first section of this act, and shall, on or before the first day of July, in each of said years, arrange in alphabetical order, in another book to be provided for that purpose, the names of all the white male inhabitants over the age of twenty-one years, of his township, who may have been enumerated as aforesaid under the preceding sections of this act, showing opposite to the name of each person his age, as nearly as the same could be ascertained. And the said Township Trustee shall attach to said book his affidavit, to be sworn to and subscribed before some officer authorized to administer oaths, setting forth that

Time of making enumeration by Township Trustees.

Township Trustee shall arrange name of all white male inhabitants over 21 years of age in duplicate order, &c.

Township Trustee to make affidavit as to correctness of enumeration.

the said book contains, as he verily believes, an honest, true, correct and complete enumeration of all the white male inhabitants over the age of twenty-one years, resident, at the time of taking said enumeration, in his township, naming it; that no person has been enumerated or returned in said book who was not at the time of making said enumeration a white male inhabitant over the age of twenty-one years, of said township, to the best of his knowledge, information and belief, and that he has not, knowingly, or negligently, omitted to enumerate and return in said book any white male inhabitant over the age of twenty-one years who was resident therein at the time of making said enumeration, which book, with the affidavit aforesaid, shall, on or before the first day of July, in each of said years, be returned by the said Township Trustee to the Auditor of his county, who shall file and preserve the same in his office, noting therein the date of such returning and filing.

Books containing enumeration with affidavits, to be returned to County Auditor.

Trustees may appoint assistants, who shall subscribe an oath.

SEC. 4. The said Township Trustees may make the enumerations of their respective townships personally, or may appoint one or more assistants, and every such assistant shall, before entering upon the performance of his duties, take and subscribe an oath, to be filed with and preserved by said Township Trustees respectively, for the honest and faithful performance of his duties in making the said enumeration.

Assistant to either take enumeration of the whole township, or a designated part thereof.

SEC. 5. Where an assistant is appointed by the Trustee either the whole duty of enumerating the township shall be assigned to such assistant, or a particular portion of the township, designated by definite lines or boundaries, shall be assigned to each assistant, and such assistant shall make the enumeration of all the white male inhabitants over the age of twenty-one years, who were at the time of making such enumeration residents of the township, or of so much thereof as may have been assigned to him by the trustee as aforesaid. The said enumeration shall be made in accordance with the provisions of the second section of this act, in a book to be furnished by the Township Trustee to said assistant for the purpose. And the said assistant, upon the completion of said enumeration, shall take and subscribe an affidavit before the Township Trustee, or some other officer authorized to administer oaths, to be attached to and returned with said book to said Trustee, setting forth that the said book contains, as he verily believes, an honest, true, correct and complete enumeration of all the white male inhabitants over the age of twenty-one years, resident at the time of the taking of said enumeration within said township, or so much thereof, *describing it*, as may have been assigned to him as aforesaid by the Township Trustee, that no person has been enumerated or returned in said book who was not, as he verily believes, at the time of making such enumeration a white

Assistant to make enumeration in a book furnished for that purpose, verified by affidavit as to the correctness thereof.

male inhabitant over the age of twenty-one years, of the said township, or the portion thereof assigned to said assistant, and that he has not knowingly, or negligently, omitted to enumerate and return in said book any white male inhabitant over the age of twenty-one years who was a resident of said township, or the part thereof so assigned to him as aforesaid, at the time of the making of said enumeration, which book and affidavit shall be returned by said assistant at such time before the first day of July in each of said years, as the said Township Trustee may direct, and shall be filed and preserved by said Trustee in his office as one of the records thereof. The date of the filing thereof shall be noted therein, and said book shall at all times be open to the inspection of the public.

Assistant to return book, with affidavit, to Township Trustee, to be by him filed, and open at all times to inspection.

SEC. 6. The said Township Trustee may, at his pleasure, remove any assistant appointed by him under the provisions of this act, and appoint another in his stead, and may, at any time before making his return of the enumeration to the County Auditor, correct any error or mistake, or supply any omission in the enumeration as made and returned by any assistant appointed by him; but such correction shall be made without altering or mutilating the book and return made by the assistant.

Township Trustee may remove Assistant and appoint another.

Trustee may, before making return of enumeration to Auditor, correct error or mistake in enumeration made by Assistant.

SEC. 7. Whenever the Township Trustee shall personally make the enumeration of his township, or any portion thereof, the same shall be made in a book as provided in the second section of this act, which book shall have attached thereto a certificate of said Township Trustee, signed by him, that the same contains an honest, true, correct and complete enumeration of all the white male inhabitants over the age of twenty-one years who were at the time of making said enumeration resident within said township, or such part thereof, *describing it*, as may be included in said book; and said book with said certificate attached shall be filed and preserved by said Township Trustee, in his office, as one of the records thereof, and shall at all times be open to the public for inspection.

When enumeration is personally made by Township Trustee, the same shall be made by him in a book, duly certified to, and kept in his office and open to inspection.

SEC. 8. The said Township Trustee may at any time before the making of his return to the County Auditor, as required by the third section of this act, correct any error or mistake, or supply any omission which may have been made either by himself or any of his assistants in making the enumeration of his township, or any portion thereof; and if the said Township Trustee shall discover any such error, mistake or omission, after having made his return to the County Auditor, it shall be his duty, immediately upon the discovery of such error, mistake, or omission to make and sign a statement in writing, to be verified by his affidavit, and to be without delay transmitted to the Auditor of the county, setting forth the facts in detail in relation to said error, mis-

Township Trustee, before making return to County Auditor, may correct error or supply omission in enumeration.

How error or mistake is to be rectified by Trustee after return is made to Auditor.

Duty of Auditor  
in such cases.

take, or omission, and wherein such error, mistake, or omission consists; and it shall be the duty of said Auditor to attach said communication to the original book returned by said Township Trustee, and such communication shall be treated as a correction or amendment of said book.

Auditor's duty  
on return of  
enumeration to  
his office. Shall  
give notice, &c.

SEC. 9. It shall be the duty of the Auditor of each county immediately after all the returns of the enumeration shall have been received by him from the several Township Trustees of his county, to give notice by publication in two newspapers of his county, if so many there be published therein, and if not, in one newspaper, stating that the Township Trustees of the several townships of the county had made and returned their enumerations of the white male inhabitants over the age of twenty-one years of their respective townships, and that the said enumerations are subject to the inspection of the public at the Auditor's office, and inviting an examination thereof, with a view to the correction of any errors, mistakes, or omissions therein. The said notice shall also state the aggregate number of white male inhabitants over the age of twenty-one years in each township of the county and the aggregate number in the entire county according to the said enumeration and return. In case there should be no newspaper printed in the county, the notice required by this section shall be given by posting up printed hand bills at the door of the Court House, and in the Auditor's, Clerk's, Treasurer's and Recorder's offices of the county, and at three public places in each township of the county. Said notices shall be posted up by the sheriff of the county, for which he shall receive the same fees as are allowed by law for other similar services, to be paid out of the county treasury.

Sheriff's duty  
and fees.

Auditor's duty  
on discovering  
or being informed  
of mistake or  
error in enumeration.

SEC. 10. Whenever the Auditor of any county discovers or is informed of any error, mistake, or omission in the enumeration of any township as returned to him by the Trustee thereof, it shall be the duty of the said Auditor to investigate the matter and correct any error or mistake, and supply any omission that may have been made, as the facts shall justify upon the completion of such investigation. Such correction shall not be made, however, by altering the book as returned by the Township Trustee, but the Auditor shall provide a book for the purpose, in which he shall enter up all corrections in the shape of orders, to be signed by him, specifying the corrections made and the omissions supplied, giving the name of each person stricken from or added to the enumeration of any township, with the reason for such correction. And the Auditor may subpoena witnesses, when necessary, as to the facts involved in any such proposed correction. Said subpoenas to be served as in other cases, and the like fees to be allowed and paid, and the record of said correction shall be preserved as one of the records of the Auditor's office.

How corrections  
shall be made by  
auditor.

Auditor may  
subpoena witnesses.  
Subpoenas how  
served, fee how  
paid.



SEC. 11. The Auditor of each county shall, on or before the first day of September in each of said years, make and certify to the Auditor of State a statement, verified by his affidavit, giving the aggregate number of white male inhabitants over the age of twenty-one years in his county, and in each township of his county according to the enumerations as made and returned under the provisions of this act, including the corrections made as hereinbefore provided for. The said statement shall also show how many persons the Auditor in making said corrections added to, and how many he deducted from the enumeration of each township as returned by the Trustee thereof. The County Auditor shall certify that the said statement contains the true number of white male inhabitants over the age of twenty-one years, resident in the several townships of his county respectively, at the time of taking said enumerations, according to the returns of the several Township Trustees of said county respectively, as corrected by the Auditor under the provisions of this act, and that in making said corrections no person was, as the said Auditor verily believes, added to said enumeration who was not, at the time of the making thereof, a white male inhabitant over twenty-one years of age of the township, to the enumeration of which he was so added. And that the name of no person was, as the said Auditor verily believes, stricken from said enumeration, who was at the time of the making thereof, a white male inhabitant over the age of twenty-one years of such township.

County Auditor shall make certified statement to Auditor of State showing, &c.

SEC. 12. The Auditor of State shall, as soon as practicable after receiving the complete returns of the enumeration from all the Auditors of the several counties of the State, make out and certify a tabular statement of the number of white male inhabitants over the age of twenty-one years in each township, and in each county of this State, and also the total number in the entire State, according to the said returns so made by the several County Auditors, which tabular statement the said Auditor of State shall cause to be published by one insertion in each of the two leading daily newspapers which may at the time be printed and published at Indianapolis. And he shall also submit the same tabular statement to the General Assembly at the commencement of their next session after the making thereof. And he shall also, prior to the meeting of the General Assembly, cause to be printed for the use thereof three hundred outline maps of the State, showing the relative size, shape, and position of each county. And within the outlines or boundaries of each county, as exhibited on the map, shall be printed the name of the county and the figures representing the number of white male inhabitants over the age of twenty-one years therein, as shown by the said enumeration and returns, which maps shall be deliv-

Auditor of State shall make out and certify a tabular statement of the white male inhabitants over the age of twenty-one years, in each township and county of the State, and of the whole State, &c., and have the same published in certain papers.

Auditor of State shall make same tabular statement to General Assembly.

Auditor of State shall have three hundred outline maps of the State printed, showing, &c.

Said maps to be delivered to President of the Senate and the Speaker of the House of Representatives, in the proportion of 100 to former, and 200 to latter.

Mistakes, &c., how corrected in enumeration after return is made to Auditor of State.

Auditor of State to appoint commissioners to investigate frauds or mistakes.

Auditor of State may prescribe rules for conducting investigations.

Commissioners to be sworn.

Commissioners may swear and examine witnesses, &c.

Auditor of State to furnish county auditors with blanks.

Auditors shall procure necessary books and blanks for township Trustees.

Auditor of State shall furnish county auditors with printed copies of this act.

Sec'y of state to have copies of this act printed.

County Auditor's fees.

ered to the President of the Senate and Speaker of the House of Representatives, at the commencement of the session, for the use of the members, in the proportion of one hundred for the Senate and two hundred for the House.

SEC. 13. If at any time after the return of said enumerations to the Auditor of State by the several County Auditors, it shall be made satisfactorily to appear to the Auditor of State, by affidavit filed, that any fraud, error, or mistake has been committed in making or correcting the enumeration in any township or townships of any county, or in returning the result of any such enumeration to the County Auditor or Auditor of State, it shall be the duty of the Auditor of State, through some citizen of the county in which the fraud or mistake is alleged to have taken place, to be by him appointed a commissioner for that purpose to fully investigate the matter and report the facts with the evidence taken, and upon which such report shall be based, to the Auditor of State, who shall submit such report and evidence to the General Assembly. The Auditor of State may prescribe rules for conducting such investigation, and the commissioners appointed by him shall be sworn faithfully and impartially to perform their duties. And such commissioner may swear and examine witnesses touching the matters to be investigated, and for that purpose may compel the attendance of witnesses before him at any place within the county where the witness resides.

SEC. 14. It shall be the duty of the Auditor of State, with the least practicable delay, after the taking effect of this act, to prepare and furnish to the Auditors of the several counties of the State all the forms which may be necessary to be used by the County Auditors or the Township Trustees, or their assistants, in carrying out the provisions of this act. And it shall be the duty of the County Auditors of the several counties of this State to procure, at the expense of their respective counties, all the books and blanks, prepared according to the forms which may be furnished by the Auditor of State, which may be necessary to enable the Township Trustees to perform the duties required of them by this act, which books and blanks shall be furnished and delivered by the County Auditors to the Township Trustees respectively, with the least practicable delay. The Auditor of State shall, at the time of furnishing the aforesaid forms, furnish to the Auditor of each county a sufficient number of printed copies of this act, the same to be certified by and printed under the supervision of the Secretary of State, as will enable such County Auditor to furnish one copy to each Township Trustee in his county, and retain two copies in his own office.

SEC. 15. The County Auditors shall receive the same fees for their services, in carrying out the provisions of this

act, that they are now entitled to by law for other similar services, and the Township Trustees shall be entitled to the same compensation for taking the enumerations provided for in this act as they are or may be entitled to by law for enumerating children for school purposes, which fees and compensation of the Auditors and Trustees shall be paid out of the county treasury of the proper county, upon the order of the Board of Commissioners of such county.

Township Trustees' fees.

County Commissioners to draw order on County Treasurer for County Auditor's & Trustees' fees.

SEC. 16. If any officer or person who is required, by the provisions of this act, to verify any statement or return by his oath or affidavit, shall wilfully and corruptly suppress the truth, or make any false statement in such statement or return, he shall be deemed guilty of perjury, and upon conviction thereof shall suffer the penalty prescribed by law for that offense.

Penalty for violation of provisions of this act.

SEC. 17. If any officer or person charged with the performance of any duty by the provisions of this act, shall fail to perform such duty, or fail to perform it within the time prescribed by this act, such officer shall thereby be deemed to be guilty of official negligence, and shall, for every such offense, forfeit and pay not less than fifty nor more than five hundred dollars, to which may be added imprisonment in the county jail not exceeding thirty days.

Penalties for violation of provisions of this act.

SEC. 18. If any officer or person charged with the performance of any duty under the provisions of this act, shall be guilty of any fraudulent act or omission in relation to such duty, such officer shall be deemed guilty of an official fraud, and for every such offense shall forfeit and pay not less than one hundred nor more than one thousand dollars, to which may be added imprisonment in the county jail of the proper county, not exceeding six months.

Penalty for violation of provisions of this act.

SEC. 19. The Grand Juries of the Circuit Courts of the several counties in this State shall have jurisdiction to find and return indictments against all persons who may violate the provisions of [the] three foregoing sections, or any or either of them; and the said Circuit Courts shall have power to try such indictments, and it shall be the duty of such Courts to give this act in special charge to the Grand Juries thereof.

Grand Juries to have jurisdiction in cases of violation of provisions of this act.

Circuit Courts to have jurisdiction to try such cases.

Such Courts to give this act in special charge to the grand juries thereof.

SEC. 20. An emergency is hereby declared to exist, requiring the immediate taking effect of this act; therefore, this act shall take effect and be in force from and after its passage.

Emergency declared.

## CHAPTER III.

AN ACT to provide a State Debt Sinking Fund for the payment of the principal and interest of the five and two and one-half per cent. stocks of the State therein named, and giving priority of payment to the holders of the two and one-half per cent. stocks of the State of Indiana, prescribing the duties of the Auditor, Treasurer and Agent of State in relation thereto, providing for a clerk of said State Debt Sinking Fund and fixing his salary, and providing a penalty for the violation of its provisions; abolishing the Board of Sinking Fund Commissioners, and all offices connected therewith, and the office of the Agent of State in the City of New York; to invest the moneys belonging to the Sinking Fund in the stocks of the State, transferring the business of said Board of Sinking Fund Commissioners to the Auditor and Treasurer of State, providing that the tax therein levied shall be taken and considered as part of the tax levied under an act, entitled "An act to raise revenue for State purposes for the years one thousand eight hundred and sixty-five, and one thousand eight hundred and sixty-six," approved March 2, 1865, and declaring an emergency for the immediate taking effect of this act.

[APPROVED DECEMBER 21, 1865.]

Purpose of this act.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That for the purpose of securing the prompt payment of the interest accruing on the certificates of stock of the State of Indiana, bearing five per cent. and two and one-half per cent. per annum interest, issued by authority of an act of the General Assembly of the State of Indiana, entitled "An act to provide for the funded debt of the State of Indiana, and for the completion of the Wabash and Erie Canal to Evansville, approved Jan. 19, 1846, and an act supplemental thereto, approved Jan. 27, 1847, and for the further purpose of securing the payment of the principal of said certificates of stock, except such as are held by the Sinking Fund Commissioners, at as early a day as practicable, there shall be levied and collected and paid into the State Treasury, in the same manner as other State taxes are levied, collected and paid over for the year one thousand eight hundred and sixty-six, and for each and every year thereafter, until the interest and principal of said certificates of stock are fully paid, the sum of ten cents on each one hundred dollars valuation of the taxable property of this State, which revenue, when so collected, together with all the money derived from the sale of the public works belonging to the State, and the net annual income from all such public works,

Ten per cent. tax to be levied and collected.

and all the moneys now belonging to the State Debt Sinking Fund and Sinking Fund proper, or that may hereafter from time to time come into said funds, and all the money and funds properly belonging to either of said funds, shall be denominated the State Debt Sinking Fund, and all such moneys are hereby set apart for the payment of such principal exclusively, and shall not, under any circumstances, be drawn or paid out of the State Treasury for any other purpose whatever, and shall only be drawn or paid out of the State Treasury in payment of the principal of said certificates of stock, in the manner in this act hereinafter prescribed. And it is hereby made the duty of the Auditor and Treasurer of State, upon the payment of any of the money arising from the provisions of this act, into the State Treasury, to pass the same to the credit of this fund on the books of their respective offices.

What to constitute State Debt Sinking Fund.

How to be applied to the payment of principal of State debt only.

SEC. 2. Within twenty days after the passage of this act, it shall be the duty of the Auditor, Treasurer and Agent of State to meet at the office of the Auditor of State, in the City of Indianapolis, and proceed to organize, and enter upon the discharge of the duties required of them by this act. They shall select, for their Clerk, the Clerk having charge of the Bank Department in the office of the Auditor of State, who shall discharge his duties, as such Clerk, in addition to the duties discharged by him as Clerk in said Bank Department; and they shall keep a full and complete record of all their proceedings in a book to be provided for that purpose, and shall procure all books and stationery necessary in transacting the business required of them in a proper manner; and all their meetings shall be held at the office of the Auditor of State, in the City of Indianapolis, unless, in the opinion of said Auditor, Treasurer, and Agent of State, a special meeting may be deemed necessary to be held at some other place.

Duty of auditor, treasurer, and agent of State—meetings to be held. Clerk to be selected.

SEC. 3. The Auditor, Treasurer, and Agent of State shall, in the first week in January, in the year one thousand eight hundred and sixty-six, and the first week in January in every year thereafter, until the War Loan Bonds are redeemed, notify the holders of such bonds that the Agent of State will be ready to pay the same to the extent of the amount of moneys on hand in the State Debt Sinking Fund specially applicable by the law for the redemption of the War Loan Bonds, on the first day of May succeeding such notice, at their par value, and require the holders thereof to notify the Agent of State, at his office in the City of New York, on or before the twenty-fifth day of the succeeding March, of their acceptance of such proposition to pay the principal, and that on failure to give the Agent of State such notice of acceptance, then the moneys of said fund remaining, after taking up so many of said bonds as the holders thereof shall have notified

Auditor, Treasurer, and agent of State to notify holders of war loan bonds when and where paid.

Holders of bonds to notify Agent of State of acceptance of proposition when and where.

How moneys applied if bondholders fail to give notice of acceptance.

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their acceptance of said proposition, shall, on the 1st day of May of each year, be used for the redemption of the certificates of stock contemplated by the provisions of this act: *Provided*, That nothing in this act shall be construed to embrace the War Loan Bonds held by the Sinking Fund Commissioners.

Auditor, Treasurer, and Agent of State when and where to meet.

SEC. 4. The Auditor, Treasurer and Agent of State, shall meet in the city of Indianapolis on the first Wednesday of April, or as soon thereafter as practicable, in the year one thousand eight hundred and sixty-six, and on the first Wednesday of April, or as soon thereafter as practicable, in every year thereafter, until the whole of the interest and principal of the stocks mentioned in the first section of this act are paid, and proceed immediately to ascertain, as near as may be, the amount of money that will be in the Treasury on the fifteenth day of the succeeding June, subject by the provisions of this act to the payment of the interest and principal of said stocks, if any, and shall carefully determine what proportion or per centum of the principal of the certificates of stock mentioned in the first section of this act, the balance of the State Debt Sinking Fund in the treasury will pay, and they shall set apart the same; and said officers of State shall then immediately notify the holders of such certificates of stock, by publication in two daily newspapers published in the city of New York, and two daily newspapers published in the city of Indianapolis, for ten consecutive days, that they will pay *pro rata*, first to the holders of the two and one-half per cent. certificates of stock, the amount of money then on hand belonging to said fund, and after all of said two and one-half per cent. stocks are fully redeemed, principal and interest, then to the holders of the five per cent. certificates of stock, after they are surrendered at the office of the Agent of State, in the city of New York, and the Agent of State shall require of all the holders of said stocks, who desire to accept said proposition or per centum of the principal, to notify him, at his office in the city of New York, of such desire to accept, on or before the twentieth day of June then next, and that on failure to give such notice, the money will be apportioned and paid over to such holders as do give the Agent of State the required notice. In case there is not a sufficient amount of the certificates of stock offered for redemption to absorb such balance of the State Debt Sinking Fund then on hand and set apart for such redemption of the principal of the certificates of stock, then the Auditor, Treasurer and Agent of State shall redeem any certificates of stock that may be offered until the State Debt Sinking Fund set apart as aforesaid shall be exhausted.

To ascertain the amount of money in treasury, when and what proportion of stock, balance state debt sinking fund will pay and set apart same.

Officers of State to notify holders of stock how and when they will pay certificates of stock.

Holders of stock to notify Agent of State their acceptance of proposition to pay, when and where.

When officers of State may redeem any certificates of stock.

SEC. 5. That each and every person owning or holding any certificate of stock shall, on the surrender of the same to the Agent of State, under the provisions of this act, receive a receipt from said Agent of State for the amount of any unpaid balance of the principal of such certificate, the Agent of State keeping a record thereof, and said agent shall immediately forward such surrendered certificate, together with a certified statement of the amount paid thereon, and the amount remaining unpaid, to the Auditor of State, who shall cancel the said certificate of stock, and issue a new certificate for such unpaid balance on the said certificate of stock, so cancelled, which new certificate shall be signed, returned to the agent of State, and registered in all respects as is required by an act of the General Assembly of the State of Indiana in relation to the transfer of stocks, entitled "An act to provide for the transferring of the certificates of the stocks of the State of Indiana, providing for the registry of the same, and prevent a fraudulent issue thereof, and providing a punishment for violation of the provisions of this act," approved March 5, 1859. The Auditor of State shall carefully register the said cancelled certificates of stock in like manner as is required of the Agent of State, and preserve them until the next meeting of the General Assembly, when the Committee of Ways and Means of the House of Representatives, and the Committee on Finance of the Senate, shall carefully compare the cancelled certificates of stock with the register of certificates of stock issued, and if found correct, cause said cancelled certificates of stock to be burned up in the presence of the Committees and the Auditor and Treasurer of State. An entry of such examination and burning shall be made on the register of the issue of said certificates of stock in the Auditor's office, and signed by the members of the committee present. When a part of the principal of a certificate of stock is paid, and a certificate of stock is issued for the unpaid balance, the Agent of State shall enter in proper columns in his register, the number, and amount, and to whom issued, and date of issue; and in a column of remarks he shall state that the new certificate was given for the unpaid balance of a surrendered certificate, giving the number of the certificate surrendered, and the number of the new certificate. The Agent of State shall transmit to the Auditor of State, on or before the first Wednesday in each month, a certified copy of his registry of such new certificates of stock in his office, stating their delivery or non-delivery.

SEC. 6. The books and papers of the Auditor, Treasurer, and Agent of State, relating to the State Debt Sinking Fund, shall be kept in the office of the Auditor of State, and shall be subject to an inspection and examination, at any time, by a

Holder of certificate to receive receipt from Agent of State for unpaid balance of certificate. Agent of State to forward surrendered certificate to Auditor of State with statement—new certificate to be issued for unpaid balance and registered.

Auditor of State to register cancelled certificates—Committee of Ways and Means and Finance Committee of Senate to compare cancelled certificates with register.

Cancelled certificates of stock to be burned up and register of same made.

When part of principal of certificate paid and new certificate issued, Agent of State register in proper columns, number, amount, date of issue and to whom issued. Copy to be sent to Auditor of State.

Books of Auditor, Treasurer, and Agent of State where kept. Subject to examination and

inspection—report of same to be made to Governor; Governor to lay same before General Assembly.

committee of the General Assembly, or either branch thereof, or by the Governor of the State, or by any person or persons he may appoint and commission for that purpose. Reports of all such examinations shall be made in writing, showing the condition of the books, the amount of the State Debt Sinking Fund in the Treasury, and especially whether any portion of said State Debt Sinking Fund has been paid out in violation of the provisions of this act. Said report or reports shall be made to the Governor by persons appointed and commissioned by him for such purpose, and the Governor shall lay such report or reports before the General Assembly, if in session at the time; if not, at the next session thereof.

When Board of Sinking Fund Commissioners abolished.

Effects of Sinking Fund to be sold by commissioner during their continuance in office, and thereafter by Governor, Secretary, Auditor and Treasurer of State, and moneys arising from such investments in State stocks.

Board of Commissioners to surrender to Auditor of State books, &c.

Duty of Governor, Auditor, Treasurer, and Secretary of State.

Auditor to issue warrant on the Treasurer on the first day of July and January of each year, for amount of interest due Sinking Fund, to take receipt therefor from Treasurer of State—Treasurer to place the same to credit of school fund. How distributed. Funds to be preserved.

Auditor to draw warrant on treasurer—when.

SEC. 7. The Board of Sinking Fund Commissioners and all the officers connected therewith, are hereby abolished from and after the 20th day of January, 1867, and all the property, of whatever kind, both real and personal, belonging to said Fund, are hereby directed to be sold on such terms, in such manner, and at such time as the said Sinking Fund Commissioners, during their continuance in office and thereafter, as the Governor, Auditor, Secretary and Treasurer of State shall deem for the best interests of said fund, and the moneys arising therefrom shall be invested in said stocks of the State as in this act provided; and after the 20th day of January, 1867, the Board of Sinking Fund Commissioners shall surrender to the Auditor of State all the books and papers, stocks, bonds, mortgages, moneys, rights, credits and effects belonging to said fund, who shall provide a suitable place for their safe keeping. From and after the last mentioned date, it shall be the duty of the Governor, Auditor, Secretary and Treasurer of State to invest all the moneys arising from mortgaged premises, or other sources belonging to said fund, as fast as they are due and collected, in the said five and two and one-half per cent. stocks of the State.

SEC. 8. It is hereby made the duty of the Auditor, on the first day of July and January of each year, to issue his warrant to the Treasurer of State for the amount of interest due said Sinking Fund on State stocks held by said fund, and deliver the same to said Treasurer, taking his receipt for the amount of said warrant, and the said Treasurer shall then proceed to place to the credit of the School Fund, for the use of said fund, an amount of money equal in amount to said warrant, and which shall be distributed in accordance with the law. And for the perpetual preservation of the principal of said school and other trust funds, and for the punctual payment of the semi-annual interest accruing thereon for the purposes contemplated in the creation of said funds, the faith of the State is hereby irrevocably pledged.

SEC. 9. At some convenient period, not exceeding fifteen days before the first days of July and January in each



year, the Auditor of State shall draw his warrant on the Treasurer of State requiring the Treasurer to transmit and pay into the hands of the Agent of State, in the City of New York, such sums of money belonging to the General Fund, in the treasury, as may be necessary to pay the interest on the certificates of stock mentioned in this act, and also a like warrant for the amount of the per centum on the principal of the certificates of stock by them determined to be paid in pursuance of the provisions of this act, payable out of the State Debt Sinking Fund, and shall deliver the warrants to the Treasurer of State, who shall at once transmit the money to the Agent of State, in the city of New York. The said agent shall, immediately on receiving the money, enclose the Treasurer of State a receipt therefor: *Provided*, that no more money shall be drawn for and transmitted to the Agent of State, at any one time, than a sum sufficient to meet the aggregate amount of interest then about to become due on the certificates of stock mentioned in this act, and the proportion or per centum of the principal of the certificates of stock determined to be paid under the provisions of this act.

Treasurer to transmit money to Agent of State.

Proviso.

SEC. 10. All necessary expenses incurred by the Auditor, Treasurer and Agent of State, in the purchase of books, stationery, exchange, and necessary traveling expenses, publishing notices, and other incidentals, shall, upon a succinct statement or statements being made in writing and approved by the Governor, together with the salary and expenses of the Agent of State now provided for by law, and the salary of the clerk of the said State Debt Sinking Fund, shall be paid out of the General Fund, provided for defraying the expenses of the State Government.

Expenses, salary of Agent of State, and Clerk of State Debt Sinking Fund, how paid.

SEC. 11. The Clerk of the State Debt Sinking Fund shall receive for his services the sum of five hundred dollars per annum, payable quarterly.

Salary of Clerk.

SEC. 12. If any officer of State or other person or persons, shall hinder, or attempt to hinder, obstruct, or attempt to obstruct any inspection or examination of the books and papers of the Auditor, Treasurer and Agent of State, relating to the State Debt Sinking Fund, or of the condition, character and amount of the State Debt Sinking Fund by committees, or persons authorized by this act to make such inspection or examination, he or they so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof, by a court of competent jurisdiction, shall be fined in any sum not less than one hundred dollars, nor more than one thousand dollars, and imprisonment in the county jail of the proper county, not less than three, nor more than twelve months, at the discretion of the court or jury trying the

Penalty for hindering or obstructing examination of books of State of State officers.

When Agency of  
State in the city  
of New York  
abolished.

Property of  
Agent of State  
to be sold by  
Agent.

Emergency.

cause. All laws and parts of laws, coming in conflict with the provisions of this act, are hereby repealed.

SEC. 13. As soon as all the certificates of stocks of this State are redeemed and cancelled, the State Agency, in the city of New York, shall be abolished, and all the books and papers belonging to said agency, shall be sent to and deposited in the office of the Auditor of State by said agent, and all the furniture belonging to said agency shall be sold by said agent, and the moneys arising therefrom, deposited in the office of the Treasurer of State, to the credit of the State Debt Sinking Fund.

SEC. 14. It is believed by this General Assembly, that it is highly important for the best interests of the State that this act should now be in force. It is therefore hereby declared that an emergency exists for the immediate taking effect of this act; it shall, therefore, be in force from and after its passage, and filing in the office of the Secretary of State.

[Filed in the office of Secretary of State, December 21, 1865.]

## CHAPTER IV.

AN ACT to authorize the Board of Sinking Fund Commissioners to invest any moneys belonging to said Fund in the Indiana State Bonds or Stocks, or in United States Stocks, and when invested in Indiana State Bonds or Stocks to provide for the cancellation of such bonds or stocks and for the issuing of new non-negotiable bonds for the benefit of the School Fund.

[APPROVED DECEMBER 20, 1865.]

Board of Sinking  
Fund Commis-  
sioners to invest  
said fund in In-  
diana State  
bonds.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That as soon as practicable after the taking effect of this act it shall be the duty of the Board of Sinking Fund Commissioners to invest the moneys now on hand belonging to the said fund in Indiana State Bonds or Stocks, or in the bonds of the United States; and it shall also be the duty of said Board, from time to time, to invest in like manner any moneys which may hereafter be paid into said fund, which investments shall be made in the manner hereinafter prescribed.

How invest-  
ments to be  
made.

SEC. 2. The said investments shall be made by purchasing Indiana Bonds or Stocks whenever the same can be obtained at satisfactory rates; but if Indiana Bonds or Stocks cannot be obtained, then it shall be the duty of said Board of Sinking Fund Commissioners to invest said funds in United

States Bonds or Stocks, commonly called "seven thirties," and whenever thereafter Indiana Bonds or Stocks can be purchased at fair rates, it shall be the duty of said Commissioners to change said investments by disposing of, for the best obtainable price, such United States Bonds or Stocks as may have been previously purchased, provided the same can be sold at satisfactory rates, and with the funds arising from such sale the said Commissioners shall purchase Indiana Bonds or Stocks at the most favorable rates at which the same can be procured.

SEC. 3. Whenever the Board of Sinking Fund Commissioners shall, from time to time, invest any money in their hands, belonging to said fund, in the bonds or stocks of this State, in the manner hereinbefore provided for, they shall immediately deliver such certificate of stock or bonds to the Auditor of State, who shall give said Board of Sinking Fund Commissioners a receipt therefor, setting forth the dates, number and amount of each certificate or bond, and the Auditor shall cancel, register and preserve the same until it shall be disposed of in the manner hereinafter prescribed.

SEC. 4. The bonds or certificates of stock which may be surrendered to the Auditor of State by the Board of Sinking Fund Commissioners, in pursuance of the third section of this act, shall be canceled by the Auditor in the presence of the Board of Sinking Fund Commissioners, by writing across the face of each bond or certificate of stock the words surrendered and canceled this — day of —, 18—, which cancellation shall be signed by the Auditor of State and the President of the Board of Sinking Fund Commissioners in their official capacities, and at the next succeeding session of the General Assembly the Committee of Ways and Means of the House of Representatives and the Committee on Finance of the Senate, shall carefully examine the said bonds or certificates of stocks so canceled and compare the same with any non-negotiable bond or bonds which may have been executed in lieu thereof, under the provisions of this act; and if said canceled certificates of stock and bonds, and said non-negotiable bond or bonds shall be found correct, the said canceled certificates of stock or bonds shall be destroyed by burning them in the presence of said committees, and the Auditor and Treasurer of State. An entry of such examination and burning shall be made on the register of the issue of said certificates of stock or bonds, and signed by the Auditor and Treasurer of State and the members of said committees present at the time, and the said committees shall report their proceedings and the result of their investigations to their respective houses.

SEC. 5. On the first Monday of May next succeeding the taking effect of this act, and on the first Monday of May of

When investments are made in stocks or bonds of this State, with money belonging to said fund, commissioners shall deliver certificate of stock or bonds to Auditor of State, who shall receipt therefor.

Auditor of State shall cancel register.

Bond or certificates of stock surrendered to be canceled.

How canceled.

Committee of ways and means of House, and committee on finance of Senate to examine bonds or certificates of stock canceled, &c.

Canceled certificates of stock or bonds to be destroyed by burning.

Entry of such examination and burning to be made and signed by auditor et al., &c.

Governor, Auditor, Treasurer, and Secretary of

State, on the 1st Monday in May in each year, to be examine State bonds or certificates of stock, &c.

Governor, Auditor, and Treasurer to execute bond to be attested by Secretary of State, &c.

Bond to be placed in the hands of Auditor of State.

Interest collected on bonds or stocks to be distributed among the several counties of this State.

Repealing clause.

Emergency declared.

each succeeding year, it shall be the duty of the Governor, Auditor, Treasurer and Secretary of State to examine the Indiana State Bonds or certificates of stock which may have previously been canceled, as hereinbefore provided for, and the Governor, Auditor and Treasurer of State shall execute, in their official capacities, a non-negotiable bond, to be attested by the Secretary of State, under the seal of the State, for the aggregate amount of all the said Indiana bonds or certificates of stock which may have been previously canceled as aforesaid, which bond shall be made payable to the State of Indiana for the use and benefit of common schools, and it shall bear six per centum interest per annum, payable semi-annually on the tenth days of April and October in each year, at the office of the Treasurer of State, on the warrant of the Auditor of State, and the said interest shall be distributed annually among the several counties of the State in the same manner and at the same time that other common school funds are or may be distributed. Said bond shall be placed in the hands of the Auditor of State, and shall be by him recorded and carefully preserved.

SEC. 6. The interest which may be collected by the Sinking Fund Commissioners on any Indiana State bonds or stocks, or on any United States bonds or stocks in which the said fund may be invested, under the provisions of this act, shall be distributed among the several counties of this State at the same time, and in the same manner, as other school funds are distributed.

SEC. 7. All acts and parts of acts contravening the provisions of this act are hereby repealed.

SEC. 8. An emergency is hereby declared to exist for the immediate taking effect of this act, wherefore the same shall be in force and take effect from and after its passage.

## CHAPTER V.

AN ACT authorizing and requiring the Commissioners of the State Debt Sinking Fund to make settlement with the Sinking Fund Commissioners for \$422,000 of the War Loan Bonds, purchased by the Sinking Fund Commissioners, with moneys belonging to the Common School Fund; also the sum of \$165,000, moneys belonging to the Common School Fund, advanced by the Sinking Fund to pay interest on the State debt; also the sum of \$33,536 09, Saline Fund, and \$29,947 00, belonging to the Bank Tax Fund. Directing the transfer to the Common School Fund of the State of Indiana, of so much of the two and one-half and five per cent. certificates of stock of the State as will, at the price paid for the same, amount to the aggregate of the sums mentioned in this act, authorizing and directing the proper officers of State to issue a bond of the State for the amount thereof, bearing six per cent. interest, payable semi-annually. Principal payable and redeemable at the pleasure of the State; directing the Treasurer of State to pass to the credit of the General Fund the several amounts herein specified, and declaring that an emergency exists for the immediate taking effect of this act.

[APPROVED DECEMBER 22, 1865.]

WHEREAS, the Sinking Fund now holds four hundred and twenty-two thousand dollars of the War Loan Bonds of this State, which were issued under an act approved May 13th, 1861, (see General Laws of Indiana, special session, 1861, page 16,) which bonds were purchased with money belonging to the Common School Fund of this State; and also a claim for one hundred and sixty-five thousand dollars against the State, advanced to pay the interest on the state debt, June 22d, 1858, bearing seven per cent. interest; therefore,

[SECTION 1.] *Be it enacted by the General Assembly of the State of Indiana,* That the Commissioners of the State Debt Sinking Fund are hereby directed to make settlement with the Sinking Fund Commissioners for the said four hundred and twenty-two thousand dollars, and also for the claim of one hundred and sixty-five thousand dollars, with the accrued interest on the last named sum up to the date of transfer, together with the sum of thirty-three thousand five hundred and thirty-six dollars and nine cents belonging to the Saline Fund; twenty-two thousand nine hundred and forty-seven dollars belonging to the Bank Tax Fund, which two latter sums are now in the State Treasury.

Commissioners  
of State Debt  
Sinking Fund  
directed to make  
settlement.

Sinking Fund Board to transfer to the Common School Fund certain amounts of two and one-half and five per cent certificates of stock.  
Officers of State to issue bond to Common School Fund, &c.

[SEC. 2.] The said State Debt Sinking Fund Board are hereby directed to transfer to the Common School Fund of this State so much of the two and one-half and five per cent. certificates of stock of this State as will, at the price paid for the same, make a sum equal to the aggregate of the several amounts enumerated in this act, and upon such settlement the officers of State are directed to issue a bond for the price paid for the same to the Common School Fund, payable at the pleasure of the State, and bearing six per cent. interest, the interest payable semi-annually, for distribution for school purposes, on the fourth Monday in April and the fifteenth day of October, unless said last day fall upon Sunday, and if so then upon the Monday following in each year, for the benefit of the Common Schools of this State; and when the said bond shall have been executed the Treasurer of State is directed to pass to the credit of the General Fund in the Treasury the sum of thirty-three thousand five hundred and thirty-six dollars and nine cents, belonging to the Saline Fund, and the further sum of twenty-two thousand nine hundred and forty-seven dollars belonging to the Bank Tax Fund.

Treasurer of State to pass to the credit of the General Fund in the treasury certain sums of money belonging to Saline and Bank Tax Fund.

Emergency declared.

[SEC. 3.] In order that the Common Schools of this State may be entitled to the benefits of this act, it is hereby declared that an emergency exists, therefore this act shall be in force from and after its passage.

## CHAPTER VI.

AN ACT making a specific appropriation from the State Treasury.

[APPROVED NOVEMBER 21, 1865.]

Appropriation for General Assembly.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the sum of fifty thousand dollars is hereby appropriated to defray the Legislative expenses of the General Assembly.

Auditor of State to issue warrant in favor of Senators and Representatives.

SEC. 2. That it shall be the duty of the Auditor of State to audit the accounts and issue his warrant upon the Treasurer of State for the per diem and mileage of Senators and Representatives as allowed by law, and also such allowance as may be provided by either House or Senate by resolution, upon the certificate, in case of Senators, of the President of the Senate, and in case of Representatives upon [the certificate] of the Speaker of the House, setting forth the time

served, and the amount of mileage and allowances to which such Senator or Representative may be entitled.

SEC. 3. That it shall be the duty of said Auditor to audit the accounts and issue his warrant upon the Treasurer of State for the per diem of the officers of the Senate and House of Representatives and their assistants and appointees, including Clerks and other assistants to Committees, upon the certificate of the President of the Senate, when elected or employed by the Senate, and upon the certificate of the Speaker of the House of Representatives when elected or employed or appointed by the House: *Provided*, That such officers and their assistants and appointees, except the pages, shall be allowed the sum of four dollars per day each: *And provided further*, That the pages be allowed the sum of two dollars per pay each.

Auditor of State to issue warrant in favor of Senate and House of Representatives.

Proviso.

SEC. 4. That the sum of three thousand nine hundred and ninety-four dollars and ten cents is hereby appropriated to pay the interest on the Vincennes University Bonds for the year eighteen hundred and sixty-five, and that the further sum of five hundred and eighteen dollars and eighty-eight cents is hereby appropriated to pay the amount accrued on failure to pay the interest on said bonds for the year 1863 and 1864.

Appropriation to pay interest on bonds of Vincennes University.

SEC. 5. That an emergency exists for the immediate taking effect of this act, and it shall take effect and be in force from and after its passage.

Emergency.

## CHAPTER VII.

AN ACT repealing an act entitled "an act for the relief of the families of soldiers, seamen and marines, and sick and wounded Indiana soldiers in hospitals in the State and United States service, and of those who have died or been disabled in such service, and prescribing the duties of certain officers therein named," approved March 4, 1865, and providing for the collection and disposition of the taxes levied in pursuance thereof for the year 1865, and providing when the same shall take effect.

[APPROVED DECEMBER 20, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That an act entitled "an act for the relief of the families of soldiers, seamen and marines, and sick and wounded Indiana soldiers in hospitals, in the State and United States service, and of those who have died or been disabled in such service; and prescribing the duties of cer-

Repeal of act for relief of soldiers' families.

tain officers therein named," approved March 4, 1865, be and the same is hereby repealed.

Taxes levied,  
how collected  
and applied.

SEC. 2. The taxes levied in pursuance of the provisions of the above entitled act, for the year 1865, shall be collected and retained in the several counties where the same was levied, under the control of the Board of County Commissioners, and by them applied in conformity with said act, as if the same were still in force, subject to the provisions herein recited.

Disbursements  
when to cease,  
and the money  
how disposed of.

SEC. 3. On and after the third day of March, 1866, all disbursements from such funds to the persons, in said act enumerated, shall cease, and the unexpended balance of such levy for the year 1865, shall, when collected after the payment of such sums of money with interest thereon as may have been by the Board of Commissioners borrowed, in pursuance of the provisions of section twelve of the above entitled act, be held and retained in the treasuries of the several counties where the same was levied and collected, as other county revenue; and it shall be the duty of the Boards of Commissioners of the several counties to provide, in such manner as they shall deem best, in a liberal manner from said fund, or from the general fund of the county, for the necessary support of needy persons of the following classes, to-wit:

County commis-  
sioners to pro-  
vide for certain  
needy persons.

1st. Non-commissioned officers and soldiers who have been or are now, or shall hereafter become disabled, by reason of wounds or diseases, incurred or contracted in the line of duty, in the service of the State or of the United States, in the late war for the suppression of the rebellion.

2d. The wives and children and mothers, who were dependent on such soldiers; the widows and children of all officers and soldiers who were killed, or died from wounds or disease done or contracted in the line of duty in such service, or who have since died, or who shall hereafter die from any of such causes. But in no case shall the beneficiaries of this act be included among the poor, provided for by the existing laws, nor shall they be sent to the County Infirmary provided for such.

County treas-  
urer to pay five  
per cent. to State  
Treasurer for  
certain purposes

SEC. 4. The Treasurers of the several counties shall pay over to the State Treasurer five per cent of all the taxes levied and collected or to be collected under the provisions of said act for the year 1865, out of which five per cent shall be paid any indebtedness incurred or created by the Governor in anticipation of the one hundred thousand dollars appropriated by the second section of the above named act, for the year 1865, for the relief of sick and wounded Indiana soldiers in hospitals and the residue of the said five per cent may be applied, under the direction of the Governor, to the relief of sick, destitute, wounded or disabled



Indiana soldiers, who have been honorably discharged and may need such assistance, and the amount and manner of such expenditure shall be reported by the Governor to the next General Assembly.

SEC. 5. Nothing in this act shall be construed so as to prevent the Boards of Commissioners of any county from allowing to the families of soldiers the amount for which they are entitled by the provisions of the act hereby repealed for the year 1865, in all cases where the same has not been allowed.

Families of soldiers to receive amount to which they are entitled under act of 1865 where same has not been allow'd

SEC. 6. It is hereby declared that an emergency exists for the immediate taking effect of this act, and the same is therefore declared to be in force and effect from and after its passage.

Emergency.

## CHAPTER VIII.

AN ACT making general appropriations for the year one thousand eight hundred and sixty-six, repealing certain sections of an act therein named, and declaring an emergency.

[APPROVED DECEMBER 23, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That for the purpose of meeting the expenses of the State government for the year one thousand eight hundred and sixty-six, the following sums are hereby appropriated:

SEC. 2. For the payment of the salary of the Agent of State, and incidental expenses of his office, the sum of five thousand dollars.

Agent of State, salary.

SEC. 3. For the payment of the interest on the Sinking Fund Bond, the sum of seventy-one thousand two hundred and ninety-three dollars and eighteen cents.

Interest Sinking Fund bond.

SEC. 4. For the Executive Officers and their Clerks the following sums:

For the salary of the Governor, three thousand dollars.

Salary of Governor.

For the salary of the Treasurer of State, three thousand dollars.

Treasurer of State, salary.

For the salary of the Auditor of State, two thousand five hundred dollars.

Auditor of State, salary.

For the salary of the Secretary of State, two thousand dollars.

Secretary of State, salary.

For the salary of the Governor's Private Secretary, five hundred dollars.

Governor's Private Secretary, salary.

Superintendent Public Instruction, salary.	For the salary of the Superintendent of Public Instruction, one thousand five hundred dollars.
State Librarian, salary.	For the salary of the State Librarian, twelve hundred dollars.
Auditor of State, clerks' salary.	For the salary of the Auditor of State's Clerks, three thousand dollars.
Treasurer's and Secretary's clerks' salary.	For the salary of the Treasurer of State's Clerk, and the Secretary of State's Clerk, eight hundred dollars each.
Sup't Pub. Inst. clerk's salary.	For the salary of the Clerk of the Superintendent of Public Instruction, eight hundred dollars.
Attorney General's salary.	For the salary of the Attorney General, one thousand dollars.
Supreme Court Judges' salary.	For the salaries of the four Judges of the Supreme Court, at three thousand dollars each, twelve thousand dollars.
Circuit Judges' salary.	For the salaries of the fourteen Circuit Judges, at two thousand dollars each, twenty-eight thousand dollars.
Prosecuting Attorney's salary.	For the salaries of the fourteen Prosecuting Attorneys, at five hundred dollars each, seven thousand dollars.
Printing paper and binding.	For Public Printing, paper and binding, twenty-five thousand dollars.
State House, attendance and repairs.	For State House, attendance and repairs, two thousand dollars.
Incidentals, &c., for State library.	For incidentals for State Library, to include binding and the purchase of new books, one thousand three hundred dollars.
Incidentals for Secretary, Auditor, and Treas. of State offices.	For the Secretary of State's office for incidentals and postage, one thousand dollars. For the Auditor of State's office, one thousand dollars. For the Treasurer of State's office, to include the cost of exchange on the transmission of funds to New York, one thousand dollars.
Incidentals for Sup't. Public Instruction.	For the office of the Superintendent of Public Instruction, for necessary incidentals, seven hundred and fifty dollars.
Rent of State offices.	For the rent of the State offices, payable on the first day of November, one thousand eight hundred and sixty-six, the sum of three thousand dollars.
Current expenses State Prison south.	For the current expenses, officers salaries, and arrearages of the State Prison South, twelve thousand dollars.
Current expenses State Prison north.	For the current expenses, officers salaries, and arrearages of the State Prison North, twelve thousand dollars.
Distribution of the laws.	For the distribution of the laws, one thousand five hundred dollars.
Sheriff's mileage	For Sheriff's mileage, six thousand dollars.
Building cell, house, &c., State Prison north.	For building cell house, guard house, main walls and sentry towers, at the State Prison North, sixty-two thousand eight hundred dollars.
Common School Fund.	That to pay the amount due on the Common School Fund, the sum of fifty thousand dollars be and the same is hereby appropriated.

SEC. 5. That the sum of six thousand dollars, or so much thereof as may be necessary, for the Executive Department for Clerk hire, and necessary incidentals of the Governor's office, be and the same is hereby appropriated.

Executive Department, clerk hire, &c.

SEC. 6. That the sum of three thousand five hundred dollars, or as much thereof as may be necessary, be and the same is hereby appropriated for the Civil Contingent Fund of the Governor, for the year one thousand eight hundred and sixty-six.

Civil contingent fund of Governor for 1866.

SEC. 7. That the sum of two thousand five hundred dollars, or so much thereof as may be necessary, be and the same is hereby appropriated to defray the expenses of telegraphing for the Executive Department.

Telegraphing.

SEC. 8. That the sum of nine thousand five hundred and fifty dollars, or so much thereof as may be necessary, be and the same is hereby appropriated to pay the expenses of clerk hire, books, stationery, blanks, furniture, and incidental expenses for the current business of the office of the Adjutant General.

Adjutant General's clerk hire.

SEC. 9. That for the miscellaneous expenses for the year one thousand eight hundred and sixty-six, the sum of three thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated.

Miscellaneous expenses for 1866.

SEC. 10. That for incidentals, including fuel, stationery, etc., for State offices and State House, the sum of three thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated.

Incidentals for State offices.

SEC. 11. That for the traveling expenses of the Superintendent of Public Instruction, the sum of six hundred dollars, or so much thereof as may be necessary, be and the same is hereby appropriated.

Traveling expenses of Superintendent of Public Instruction.

SEC. 12. That for office rent, fuel, lights, and stationery, for the Attorney General, the sum of five hundred dollars be and the same is hereby appropriated.

Office rent, &c., for Attorney General.

SEC. 13. That for the purpose of meeting the incidental expenses of the judiciary, to pay the Judges of Circuit and Common Pleas Courts, called by the presiding Judge to try causes in which he may be interested, and for special terms, the sum of one thousand five hundred dollars be and the same is hereby appropriated.

Incidental expenses of Judiciary.

SEC. 14. That for the current expenses of the Indiana Institution for the education of the Deaf and Dumb, including the salary of fourteen hundred dollars of the Superintendent of the same, which salary shall be in full for all services in connection with said Institution, the sum of thirty thousand dollars, be and the same is hereby appropriated.

Current expenses of the Deaf and Dumb Asylum, and salary of Superintendent thereof.

SEC. 15. That for the current expenses of the Indiana Institution for the education of the Blind, including the salary of fourteen hundred dollars of the Superintendent of

Current expenses of the Blind Asylum and salary of the Superintendent thereof.

the same, which salary shall be in full for all services in connection with said Institution, the sum of twenty thousand dollars be and the same is hereby appropriated.

Current expenses of the Indiana Hospital for the Insane, and salary of Superintendent thereof.

SEC. 16. That for the current expenses of the Indiana Hospital for the Insane, including the salary of one thousand eight hundred dollars of the Superintendent of the same, which salary shall be in full for all services in connection with said Institution, the sum of sixty thousand dollars be and the same is hereby appropriated.

Current expenses of the Supreme Court.

SEC. 17. That for the contingent expenses of the Supreme Court, the sum of two thousand dollars be and the same is hereby appropriated.

Quartermaster General.

SEC. 18. That the sum of five thousand dollars, or so much thereof as may be necessary, be and the same is hereby appropriated for the department of the Quarter Master General of the State of Indiana.

Unadjusted claims of the six regiment volunteer troops for twelve months.

SEC. 19. That the sum of two thousand five hundred dollars be, and the same is hereby, appropriated to pay the claims now due and unadjusted of the troops called into the State service under the order authorizing the raising of six regiments for twelve months service.

Extra services of State Librarian.

SEC. 20. That the sum of two hundred dollars is hereby appropriated, for extra services, to the State Librarian for the year 1865.

Sections of act making general appropriations, approved March 6, 1865, repealed.

SEC. 21. *Be it further enacted*, That sections thirty-eight, thirty-nine, forty, forty-one, forty-two, forty-three, forty-four, forty-five, forty-six, forty-seven, forty-eight, forty-nine, fifty, fifty-one, fifty-two, fifty-three, fifty-four, fifty-five, fifty-six, fifty-seven, fifty-eight, fifty-nine, sixty, sixty-one, sixty-two, sixty-three, sixty-four, sixty-five, sixty-six, sixty-seven, and sixty-eight, of an act entitled "An act making general appropriations for the years one thousand eight hundred and sixty-five and one thousand eight hundred and sixty-six," approved March 6, 1865, be, and the same are hereby, repealed.

Auditor of State to draw warrant on Treasurer of State for claims audited by military auditing committee.

SEC. 22. That the Auditor of State be, and he is hereby, authorized and directed to draw his warrant on the Treasurer for each and every claim heretofore audited by either of the Military Auditing Committees of the State and not heretofore paid, and also for all claims hereafter audited by the Military Auditing Committee appointed in pursuance of an act of the General Assembly of the State of Indiana, making general appropriations for the years one thousand eight hundred and sixty-five, and one thousand eight hundred and sixty-six, approved March 6, 1865: *Provided*, No such warrant shall be drawn prior to April 1st, 1866: *Provided*, That the said Auditing Committee be, and they are hereby, authorized and empowered to examine and audit the claims now filed and pending and undisposed of before the said Commit-

Proviso.

tee, and to make a full report of their doings as now required by law: *And provided further*, That said Committee shall not sit longer than the first of next April.

SEC. 23. That for the repairs, indebtedness and improvements of the State Prison South, the amount of eighteen thousand dollars be, and the same is hereby, appropriated. Repairs, &c., of  
State Prison  
South.

SEC. 24. That the Adjutant General of the State shall have the rank, pay, and allowances of a Brigadier General in the army of the United States, on post duty, to be paid out of any money in the treasury not otherwise appropriated, upon proper and duly certified vouchers. Said pay and allowances shall be in full as compensation for all services and expenses rendered under this act, by virtue of his office as Adjutant General, in the settlement of claims against the United States, and for service in taking charge of the Ordnance Department. The duties of said Ordnance Department are hereby committed to the charge of the Adjutant General, who shall discharge the same in addition to his duties as Adjutant General. Adjutant General, his rank,  
pay and allowance.

SEC. 25. That for the purpose of making repairs, and defraying the current expenses of the Indiana Institution for the education of the Blind, the sum of fifteen thousand dollars be and the same is hereby appropriated. Repairs, &c., of  
Blind Asylum.

SEC. 26. Whereas an emergency is declared to exist for the immediate taking effect of this act, the same shall, therefore, take effect and be in force from and after its passage. Emergency declared.

## CHAPTER IX.

AN ACT making specific appropriations for the years one thousand eight hundred and fifty-nine, sixty-one, sixty-three, sixty-five and sixty-six.

[APPROVED DECEMBER 22, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That Nelson Jervis be allowed the sum of three hundred and twenty-three dollars and thirty-three cents, for returning fugitives from justice to the State. Nelson Jervis.

SEC. 2. That Morrison and Ray be allowed the sum of two hundred dollars, for prosecuting a suit in the Marion Circuit Court, for the State of Indiana, in the name of Joseph A. Wright against John D. Defrees and others. Morrison & Ray.

SEC. 3. That William H. Roll and Smith be allowed the sum of eighty-one dollars and eighty-eight cents for paper-  
G. L.—5 Roll and Smith.

ing, curtains, and carpet for the office of the Superintendent of Public Instruction.

Munson and Johnson.

SEC. 4. That Munson and Johnson be allowed the sum of sixty-eight dollars and twenty-five cents, for stove pipe and furnace grates for State House, session of 1865.

Turner and Dickson.

SEC. 5. That Turner and Dickson be allowed the sum of three dollars, for patent rubber mops, session of 1865.

Munson and Johnson.

SEC. 6. That Munson and Johnson be allowed the sum of seventeen dollars and five cents for water pots, tumblers, drainers, &c., session of 1865.

J. T. Ramsay.

SEC. 7. That J. T. Ramsay be allowed the sum of ten dollars, for table and desk for use of House Clerk, session of 1865.

Ely and Bruner.

SEC. 8. That Ely and Bruner be allowed the sum of fifty-eight dollars, for repairing the dome in Representative Hall, session of 1865.

C. A. Ferguson.

SEC. 9. That C. A. Ferguson be allowed the sum of twenty-five dollars, for clock for State Library, session of 1865.

J. S. Walker.

SEC. 10. That J. S. Walker be allowed the sum of two dollars and five cents, for lumber for State House in 1863.

J. P. Mead.

SEC. 11. That J. P. Mead be allowed the sum of seventy-six dollars and twenty-five cents, expenses incurred in conveying a convict to the State Prison South.

Philip Warren.

SEC. 12. That Philip Warren be allowed the sum of two dollars and seventy-five cents for brooms furnished for the use of the Legislature during the session of 1863.

C. A. Woodbridge.

SEC. 13. That C. A. Woodbridge be allowed the sum of seven dollars and thirty-two cents, for sundry articles furnished for use of the Legislature at the session of 1863.

J. S. Walker.

SEC. 14. That J. S. Walker be allowed the sum of seven dollars, for lumber furnished in 1863.

A. M. Elkins.

SEC. 15. That A. M. Elkins be allowed the sum of twelve dollars, for labor in fitting up for the Legislature, session of 1861.

Jacob Lindley.

SEC. 16. That Jacob Lindley be allowed the sum of four dollars, for pitchers and tumblers furnished in 1859.

Semmons & Co.

SEC. 17. That Semmons & Co. be allowed the sum of one dollar and twenty-five cents, for thermometer for the House of Representatives, session of 1863.

L. B. Brown.

SEC. 18. That Latham B. Brown be allowed the sum of thirty dollars for labor done at the State House in 1863.

Jas. Campbell.

SEC. 19. That James Campbell be allowed the sum of three hundred and eighty-four dollars and sixty-seven cents for books, furnished for use of State Prison, per order of the Superintendent of Public Instruction in 1861.

McCord and Wheatley.

SEC. 20. That McCord & Wheatley be allowed the sum of fourteen dollars and ninety cents for fence posts and fencing for State House in 1863.

SEC. 21. That Thomas Barber be allowed the sum of one Thos. Barber. dollar and fifty cents for paste furnished for use at State House, session of 1863.

SEC. 22. That Fitchey & Anderson be allowed the sum Fitchey and Anderson. of four dollars and fifty cents for double locks and repairing ventilator and State House in 1863.

SEC. 23. That Hogshire & Co. be allowed the sum of six Hogshire & Co. dollars for baskets, for use of the Legislature, session of 1863.

SEC. 24. That Hogshire & Co. be allowed the sum of Hogshire & Co. forty dollars and thirty cents for baskets, saw-bucks, saws, &c., purchased by the Doorkeeper of the Senate during the session of 1865, and the farther sum of five dollars, for repairing chairs for the Senate, at the session of 1865.

SEC. 25. That Case & Marsh be allowed the sum of one Case and Marsh. dollar for work done per order of the Doorkeeper of the House, session of 1865.

SEC. 26. That Joseph Reinhart be allowed the sum of Jos. Reinhart. sixteen dollars, for keys furnished for State House and for repairs in 1863.

SEC. 27. That C. A. Furguson be allowed the sum of C. A. Furguson. twelve dollars and twenty-five cents, for clock for Governor's room and cleaning clock in Senate chamber, in 1862.

SEC. 28. That R. Hemringer be allowed the sum of one R. Hemringer. hundred and forty-nine dollars and seventy-six cents, for furnishing the Indiana Free Press for the Legislature, session of 1863.

SEC. 29. That J. Reinhart be allowed the sum of eleven J. Reinhart. dollars and seventy-five cents, for lock and keys for State House in 1863.

SEC. 30. That Julius Boetticher be allowed the sum of J. Boetticher. one hundred and sixty-eight dollars and forty-eight cents, for the Indiana Volksblatt, for members of the House of Representatives, session of 1863.

SEC. 31. That Deloss, Root & Co. be allowed the sum of Deloss Root & Co. thirty-two dollars and ninety-five cents for stove and pipe for Supreme Court Room in 1862.

SEC. 32. That D. B. Angell be allowed the sum of one D. B. Angell. hundred and forty dollars, for making abstract of books of Northern State Prison, for mileage and witness fees.

SEC. 33. That William Hinesly be allowed the sum of Wm. Hinesley. one hundred and eighty-two dollars for wood furnished State House in 1865.

SEC. 34. That J. H. Ross be allowed the sum of eight J. H. Ross. hundred and ninety-six dollars, for coal furnished State House in 1865.

SEC. 35. That Browning and Sloan be allowed the sum of Browning and Sloan. one hundred and eighteen dollars, for gas, for State House in 1864.

McLene and Heron.

SEC. 36 That McLene and Heron be allowed the sum of ten dollars, for repairing clocks in the State House in 1865.

Tousey and Byram.

SEC. 37. That Tousey and Byram be allowed the sum of five dollars and seventy-three cents, for green baize, for use at House of Representatives, session of 1865.

Elijah Hackleman.

SEC. 38 That Elijah Hackleman be allowed the sum of ten dollars, for expense of sending special messenger with duplicate certificate of election of Governor in 1865.

Charles Mayer.

SEC. 39. That Charles Mayer be allowed the sum of three dollars and sixty cents, for looking glass, hair brush, &c., session of 1865, and the further sum of three dollars and eighty cents, for hair brush, comb, &c., session of 1865, and also the further sum of eight dollars, for looking glasses, combs, &c., session of 1865.

G. H. Forshee.

SEC. 40. That G. H. Forshee be allowed the sum of four dollars and twenty-five cents, for making iron pokers, repairing pokers, &c., session of 1865.

J. F. Seymour.

SEC. 41. That J. F. Seymour be allowed the sum of five dollars and fifty cents for lamp, coal oil, &c., session of 1865.

J. R. Bracken.

SEC. 42. That J. R. Bracken's estate be allowed the sum of three hundred dollars for services rendered in making Catalogue for the State Library in 1864.

Bowen, Stewart, & Co.

SEC. 43. That Bowen, Stewart & Co. be allowed the sum of sixty-one dollars and seventy-two cents for stationery furnished the Superintendent of Public Instruction, in 1863, 1864 and 1865.

W. B. Mathews.

SEC. 44. That W. B. Mathews be allowed the sum of ninety-eight dollars and fifty cents, for arresting and conveying to Indianapolis, Indiana, L. B. Calhoun, a fugitive from justice.

J. K. Gapen.

SEC. 45. That J. K. Gapen be allowed the sum of three thousand two hundred and eighty-five dollars and sixty cents for services rendered as Agent of State in the years 1863, 1864 and 1865.

Robert Evans.

SEC. 46. That Robert Evans be allowed the sum of twenty-five dollars, for repairing chimneys at State House in 1865.

J. G. Stiltz.

SEC. 47. That J. George Stiltz be allowed the sum of three dollars and seventy-five cents for shovel and fork, session of 1865.

G. A. Woodbridge.

SEC. 48. That C. A. Woodbridge be allowed the sum of twelve dollars for pitchers, tumblers, &c., in 1865.

Thos. Coleman.

SEC. 49. That Thomas Coleman be allowed the sum of one hundred and ninety-nine dollars and ninety-three cents, recommended by Committee on Claims, and ordered to be incorporated in the Specific Appropriation Bill.

J. E. McDonald.

SEC. 50. That Joseph E. McDonald be allowed the sum of fifteen hundred dollars for services rendered the State in procuring the cancellation of fraudulent Indiana bonds.



SEC. 51. That John C. Dunn be allowed the sum of eighty-eight dollars for gas pipe and fixtures for State House, 1865. J. C. Dunn.

SEC. 52. That Cox and Brandt be allowed the sum of nine dollars, for writing fluid for State Librarian in 1863. Cox and Brandt.

SEC. 53. That Geo. W. Pitts be allowed the sum of two hundred dollars for ice for use of Legislature in 1865. G. W. Pitts.

SEC. 54. That Morrison and Ray be allowed the sum of five hundred dollars for attorneys' fees in the case of Mary J. Jameson and others, *vs.* the Institution for the Blind. Morrison and Ray.

SEC. 55. That L. B. Wilson be allowed the sum of twenty dollars for preparing a diagram of the House of Representatives in 1865. L. B. Wilson.

SEC. 56. That Peter Wilkins be allowed the sum of seventeen dollars for labor during session of 1865. Peter Wilkins.

SEC. 57. That L. Saylor be allowed the sum of seven dollars and forty-one cents, for soap, brushes, &c., session of 1865. L. Saylor.

SEC. 58. That Tousey, Byram & Co. be allowed the sum of thirteen dollars and eighty cents for crash, for session of 1865. Tousey, Byram & Co.

SEC. 59. That Hall and Hutchinson be allowed the sum of twenty dollars for Statutes purchased by State Librarian, session of 1865. Hall and Hutchinson.

SEC. 60. That Munson and Johnson be allowed the sum of seventy-two dollars and fifty-five cents for sundry articles furnished the Adjutant General for use of his office in 1865. Munson and Johnson.

SEC. 61. That McDonald and Roach be allowed the sum of three hundred and fifty dollars for written opinion on question of payment of interest on the State debt, and services in Supreme Court. McDonald and Roach.

SEC. 62. That Samuel H. Patterson be allowed the sum of three hundred dollars attorney's fees in suits with convicts at the State Prison South. S. H. Patterson.

SEC. 63. That A. E. & W. H. Drapier be allowed the sum of twelve hundred dollars, or so much thereof as will pay for six hundred copies, being the usual number of copies furnished for this House every session since 1857, of the Brevier Legislative Reports of the debates and proceedings of the present session, an equal number of copies to be sent by Express to each member, and one copy to each elective officer of this House, as soon after the adjournment as possible. A. E. and W. H. Drapier.

SEC. 64. That Jones, Hess and Davis be allowed the sum of fifteen dollars and fifty cents for crash and thread, furnished at extra session of 1865. Jones, Hess and Davis.

SEC. 65. That A. E. Vinton & Co. be allowed the sum of three dollars, for three thermometers for session of 1865. A. E. Vinton & Co.

SEC. 66. That Spiegel, Thoms & Co. be allowed the sum of twenty-six dollars and seventy-five cents, for table and carving chairs at regular session of 1865. Spiegel, Thoms & Co.

- C. Kindler.** SEC. 67. That Chas. Kindler, for repairing locks and furnishing keys in 1862, be allowed the sum of sixty-nine dollars and ten cents.
- J. T. Kibbey.** SEC. 68. That John F. Kibbey, for eighteen days' service in conjunction with the Attorney General in investigating the Stover frauds in New York in 1863, be allowed the sum of four hundred and fifty dollars.
- Munson and Johnson.** SEC. 69. That Munson & Johnson be allowed the sum of two hundred and eighty-two dollars and forty-five cents, for repairing stoves and grates, and furnishing various articles, as per order of State Librarian, for the use of the extra session of the Legislature of 1865.
- W. Q. Smith.** SEC. 70. That W. Q. Smith be allowed the sum of twenty dollars, for coal furnished by order of the Doorkeeper of the House, special session 1865.
- J. E. McDonald.** SEC. 71. That Joseph E. McDonald, for expenses of two trips to New York, and services rendered in procuring the cancellation of fraudulent bonds, be allowed the sum of seven hundred and fifty dollars.
- C. T. Nixon.** SEC. 72. That Cyrus T. Nixon and Robert O. Dormer be allowed the sum of one hundred dollars each for indexing House Journal, special session 1865.
- Bedford Branch of Bank of the State.** SEC. 73. That the Bedford Branch of the Bank of the State of Indiana be allowed the sum of three hundred dollars, for ten lost coupons of thirty dollars each, which coupons were lost, destroyed, or stolen while in transit from said Branch Bank at Bedford to the Agent of State in New York for payment, so soon as they shall have filed a certificate of the date and number of such coupons with the Auditor of State, a copy of which certificate shall be furnished the Agent of State, stating that such coupons have never been paid, or have not been heard of since their loss, in May, 1864, and also a quietus therefor.
- J. E. McDonald.** SEC. 74. That Joseph E. McDonald be allowed the sum of one thousand dollars, for moneys expended on account of cancellation of fraudulent Indiana bonds.
- Tousey and Byram.** SEC. 75. That Tousey and Byram be allowed the sum of six hundred and fifty-six dollars and thirty-seven cents for sundry articles for use of State Library in 1863.
- Tousey, Byram & Co.** SEC. 76. That Tousey, Byram and Co. be allowed the sum of two thousand one hundred and eighty-nine dollars and forty-two cents for refurnishing State House in 1864 and 1865.
- T. Gifford.** SEC. 77. That Thomas Gifford be allowed the sum of sixty-three dollars and ninety cents for services on committee to investigate the finances of the State in 1865.
- J. W. Copeland.** SEC. 78. That J. W. Copeland be allowed the sum of nine dollars for ribbons, per order of State Librarian special session 1865.

SEC. 79. That H. C. Chandler be allowed the sum of two hundred and twenty-nine dollars and ninety-five cents for stationery for use of General Assembly, special session 1865. H. C. Chandler.

SEC. 80. That Peter Wilkins be allowed the sum of three dollars for making coal tub for State House. Peter Wilkins.

SEC. 81. That Hall and Hutchinson be allowed the sum of seventy dollars for blank books furnished for use of Senate and House, session of 1865. Hall and Hutchinson.

SEC. 82. That Holloway, Douglass and Co. be allowed the sum of seven hundred and seventy-one dollars and seventy-five cents for Daily Journal for members of House, and the further sum of sixty-two dollars and fifty cents for printing enrolled bills, book and paper, special session 1865. Holloway, Douglass & Co.

SEC. 83. That Hall and Hutchinson be allowed the sum of seven hundred and seventy-one dollars and seventy-five cents for Daily Herald, special session 1865. Hall and Hutchinson.

SEC. 84. That the Daily Telegraph Co. be allowed the sum of five hundred and fourteen dollars and fifty cents for Daily Telegraph, special session 1865. Daily Telegraph Company.

SEC. 85. That O. Christman be allowed the sum of sixty dollars for ice for the present session of the Legislature. O. Christman.

SEC. 86. That H. C. Chandler be allowed the sum of sixty-six dollars and forty cents for stationery furnished State Librarian, special session 1865. H. C. Chandler.

SEC. 87. That L. Sailors be allowed the sum of sixteen dollars and seventy-five cents for sundry articles for use of House purchased by Doorkeeper, special session 1865. L. Sailors.

SEC. 88. That Cox and Brandt be allowed the sum of nine dollars for writing fluid, per State Librarian in 1864. Cox and Brandt.

SEC. 89. That Dorsey and Layman be allowed the sum of one dollar for hatchet, per Doorkeeper, special session 1865. Dorsey and Layman.

SEC. 90. That Merrill and Co. be allowed the sum of two hundred and forty-three dollars and thirty cents for stationery purchased by State Librarian. Merrill & Co.

SEC. 91. That Browning and Sloan be allowed the sum of two dollars and ten cents for lamps and chimneys, per Doorkeeper, special session 1865. Browning and Sloan.

SEC. 92. That William Scudder be allowed the sum of twenty-nine dollars for work done in Hall of Representatives, per Doorkeeper. W. Scudder.

SEC. 93. That H. M. Ackroyd be allowed the sum of one hundred and fifty dollars for services in measuring work at Northern Prison in 1863. H. M. Ackroyd.

SEC. 94. That Peter Wilkins be allowed the sum of nineteen dollars and fifty cents for making and washing towels present session. P. Wilkins.

SEC. 95. That the Committee on Claims be allowed the B. Boyd.

sum of twenty dollars for clerk hire, the same to be paid to R. Boyd, chairman of said committee.

J. M. Whitmore SEC. 96. That John M. Whittemore be allowed the sum of sixty-one dollars and forty-two cents for books sold M. J. Fletcher for use of Northern Prison.

J. Lyons. SEC. 97. That James Lyons be allowed the sum of two dollars and fifty cents for towels.

Hall and Hutchinson. SEC. 98. That Hall and Hutchinson be allowed three dollars and fifty cents for articles furnished Senate.

Wilkins and Hall. SEC. 99. That Wilkens and Hall be allowed the sum of twenty one dollars for repairs, and varnishing chairs of Senate.

Kendler and Isensee. SEC. 100. That Kendler and Isensee be allowed twenty-seven dollars and ninety cents, repairing desks of Senate.

W. and J. Braden. SEC. 101. That W. and J. Braden be allowed eighteen dollars and eighty cents for register journal for Senate.

I. G. L. & C. Co. SEC. 102. That the Indianapolis Gas Light and Coke Co. be allowed sixty-five dollars and seventy cents, for gas furnished last sessions.

G. H. Murfey. SEC. 103. That George H. Murfey be allowed nine hundred and fifty-two dollars, purchase money of land, ordered refunded.

Merrill & Co. SEC. 104. That Merrill and Co. be allowed three hundred and nine dollars and forty-five cents, for stationery for present session.

W. A. Bonham. SEC. 105. That William A. Bonham be allowed thirty-six dollars witness fee, attending before committee of the Legislature of 1863, on military arrests.

W. Frash. SEC. 106. That William Frash be allowed thirty six dollars witness fee, as above.

A. Stahl. SEC. 107. That Abraham Stahl be allowed twenty-four dollars as witness fee, as above.

W. H. Gable. SEC. 108. That William H. Gable be allowed thirty-three dollars witness fee, as above.

A. B. Jetmore. SEC. 109. That Abraham B. Jetmore be allowed thirty-three dollars witness fee, as above.

Haywood & Co. SEC. 110. That Haywood and Co. be allowed two dollars and ten cents for filing saws.

G. Good. SEC. 111. That Gonas Good be allowed thirty-six dollars witness fees, attending on Committee on Arbitrary Arrest.

J. H. Blake. SEC. 112. That Joseph H. Blake be allowed twenty dollars and seventy-five cents, as witness fees attending before Committee of Legislature of 1863.

B. H. Cornwell. SEC. 113. That B. H. Cornwell be allowed twenty-six dollars and seventy-five cents, witness fee as above.

C. H. Baily. SEC. 114. That Cullum H. Baily be allowed twenty-six dollars and seventy-five cents, as witness fee, as above.

W. H. Stewart. SEC. 115. That William H. Stewart be allowed twenty-six dollars and seventy-five cents witness fee, as above.

SEC. 116. That James G. Bryant be allowed six dollars J. G. Bryant. and fifty cents for Cushing's Manual, for Senate, 1865.

SEC. 117. That Patrick Brennan be allowed thirty dollars P. Brennan. for work done at regular session.

SEC. 118. That J. H. Jordan be allowed one hundred J. H. Jordan. and fifty-five dollars and seventy-five cents for, the Gazette for regular session.

SEC. 119. That Aquilla Jones be allowed eight hundred Aquilla Jones. and fifty-nine dollars and eight cents, money furnished Governor Willard during his term of office.

SEC. 120. That Julius Boetticher be allowed the sum of J. Boetticher. fifty-five dollars and fifty-five cents, for the Weekly Indiana Volksblatt, during this session.

SEC. 121. That the Daily Telegraph Co. be allowed the sum of three hundred and eighty-nine dollars and fifty-five cents, for their paper during this session. Daily Telegraph Company.

SEC. 122. That Holloway, Douglass & Co. be allowed the sum of twenty dollars, for paper for enrolled acts. Holloway, Douglass & Co.

SEC. 123. That Browning and Sloan be allowed the sum of thirty dollars and twenty cents for articles furnished Senate. Browning and Sloan.

SEC. 124. That Munson and Johnson be allowed the sum of eight dollars and forty cents, for articles furnished Senate. Munson and Johnson.

SEC. 125. That Jones, Hess and Davis be allowed the sum of three dollars and fifty cents for towels. Jones, Hess and Davis.

SEC. 126. That Henry Rees and Co. be allowed the sum of twenty dollars and eight cents for articles furnished Senate. H. Rus & Co.

SEC. 127. That Merrill and Co. be allowed the sum of three hundred and forty dollars and seventeen cents for stationery. Merrill & Co.

SEC. 128. That Henry Coleman be allowed the sum of ten dollars, for work done at Governor's house. H. Coleman.

SEC. 129. That N. F. Cunningham be allowed one thousand one hundred and eighty-eight dollars, amount due him for receipts and disbursements of the Swamp Land fund during his office as Treasurer of State. N. F. Cunningham.

SEC. 130. That Hall and Hutchinson be allowed the sum of three hundred and fifty two dollars and forty-five cents, for the Daily Herald during the present session. Hall and Hutchinson.

SEC. 131. That J. H. Jordan be allowed the sum of seventy-four dollars and twenty cents, for the Daily Gazette during the present session. J. H. Jordan.

SEC. 132. That Holloway, Douglass and Co. be allowed the sum of three hundred and fifty-two dollars and forty-five cents, for the Daily Journal during the present session. Holloway, Douglass & Co.

SEC. 133. That Browning and Sloan be allowed the sum of twenty-five dollars and forty-five cents, for articles furnished Senate. Browning and Sloan.

- Merrill & Co. SEC. 134. That Merrill and Co. be allowed the sum of ninety-three dollars and twelve cents, for stationery.
- A. E. and W. H. Drapier. SEC. 135. That A. E. and W. H. Drapier be allowed for Brevier Legislative Reports, furnished last session in compliance with resolutions then passed, and also at the same rate, viz: two thirds of one cent a page per copy for the same number of copies of the current value for the present session.
- W. D. Latshaw. SEC. 136. That W. D. Latshaw be allowed the sum of thirty-four dollars, for attendance as witness before Committee of Legislature of 1863.
- Merrill & Co. SEC. 137. That Merrill and Co. be allowed the sum of three hundred and fifteen dollars and sixty cents, for stationery.
- D. Stephenson. SEC. 138. That David Stephenson be allowed the sum of five hundred dollars, for statutes furnished last session.
- Bowen, Stewart & Co. SEC. 139. That Bowen, Stewart and Co. be allowed eighty-six dollars and twenty-eight cents, for stationery of last session.
- Merrill & Co. SEC. 140. That Merrill and Co. be allowed the sum of eight hundred and twenty-three dollars and seventy-five cents, stationery furnished for regular session.
- Werden & Co. SEC. 141. That Worden and Co. be allowed three dollars and forty cents, stationery for regular session.
- Hume & Adams. SEC. 142. That Fume and Adams be allowed the sum of seventeen dollars and eight cents, articles furnished for regular session.
- C. Kindler. SEC. 143. That C. Kindler be allowed nine dollars and eighty-five cents, for articles furnished at regular session.
- J. H. Ross. SEC. 144. That J. H. Ross be allowed the sum of one hundred and forty-nine dollars, for coal furnished last session.
- Ennis and Miles SEC. 145. That Ennis and Miles be allowed thirty-four dollars and seventy-five cents, articles furnished last session.
- Cabinet Maker's Union. SEC. 146. That the Cabinet Makers' Union be allowed the sum of thirty-two dollars, articles furnished committee room, regular session.
- Spiegel, Thoms & Co. SEC. 147. That Spiegel, Thoms and Co. be allowed the sum of fifty-nine dollars and fifty cents, for furniture for use of Senate, regular session.
- C. E. Hawthorn. SEC. 148. That Charles E. Hawthorn be allowed the sum of twenty-seven dollars, for articles furnished Senate, regular session.
- Tousey, Byram & Co. SEC. 149. That Tousey, Byram and Co. be allowed forty-nine dollars and eighty-eight cents.
- E. H. Brown. SEC. 150. That E. H. Brown be allowed twelve dollars, for services at regular session.

SEC. 151. That Jones, Vinnedge and Jones be allowed five dollars, articles furnished Senate at regular session. Jones, Vinnedge and Jones.

SEC. 152. That Henry Rees and Co. be allowed five dollars, articles for regular session. H. Rees & Co.

SEC. 153. That M. H. Good be allowed the sum of twelve dollars, for articles for regular session. M. H. Good.

SEC. 154. That C. A. Woodbridge be allowed the sum of fifteen dollars, for crockery for regular session. C. A. Woodbridge.

SEC. 155. That C. A. Ferguson be allowed the sum of two dollars and fifty cents, for repairs of clocks this session. C. A. Ferguson.

SEC. 156. That H. C. Chandler be allowed the sum of fifty dollars and eighty-seven cents, for stationery. H. C. Chandler.

SEC. 157. That W. H. Wamsley be allowed one hundred and nineteen dollars and fifty cents, as allowed last session but not paid. W. H. Wamsley.

SEC. 158. That Stiles W. Erving be allowed fifty dollars and seventeen cents, as allowed. S. W. Erving.

SEC. 159. That Merrill and Co. be allowed thirty-nine dollars and forty cents, for stationery. Merrill & Co.

SEC. 160. That O. M. Wilson, Principal Secretary, and A. P. Newkirk, Assistant Secretary, be allowed the sum [of] one hundred dollars each, for indexing Senate Journal for special session 1865. O. M. Wilson.  
A. P. Newkirk.

SEC. 161. That Kindler and Isensee be allowed two dollars, keys and lock furnished the Senate. Kindler and Isensee.

SEC. 162. That twenty thousand dollars be and the same is hereby appropriated, for the current expenses of this General Assembly. Appropriation for expenses of General Assembly.

SEC. 163. That William and J. Braden be allowed one dollar and twenty cents, for blanks, for Secretary of Senate. W. & J. Braden.

SEC. 164. That Frank Zelleff, be allowed the sum of fifteen dollars, extra services as Enrolling Clerk, for extra session 1865. F. Zelleff.

SEC. 165. That A. H. Brown be allowed ten dollars, extra service as Enrolling Clerk, for extra session of 1865. A. H. Brown.

SEC. 166. That Merrill and Co. be allowed the sum of ninety-nine dollars and ten cents, for stationery. Merrill & Co.

SEC. 167. That the sum of three thousand four hundred and sixty-nine dollars and eighty-three cents, be appropriated to pay the balance assessed to the State of Indiana, for the improvement of the Gettysburg National Cemetery. Gettysburg National Cemetery.

SEC. 168. That James Campbell be allowed the sum of four hundred and seventy-one dollars and twenty-two cents, for books for use of Northern Penitentiary. James Campbell.

SEC. 169. That Martin Fenner be allowed the sum of \_\_\_\_\_, for services as fireman Committee of Ways and Means, to be certified by Speaker of House. Martin Fenner.

Presiding officers of each house to certify.

SEC. 170. That the presiding officers of each House be authorized to certify the number of days the employees thereof have been actually engaged in their official duties, and that they be paid the amounts allowed by law, upon such certificate.

## CHAPTER X.

AN ACT to amend the fortieth clause of section thirty of an act entitled "an act granting to the citizens of the town of Evansville, in the county of Vanderburg, a City Charter," approved January 27, 1847, and declaratory of the meaning of the second section of the same act.

[APPROVED DECEMBER 21, 1865.]

SECTION 1. Whereas, section thirty of an act entitled "An act granting the citizens of the town of Evansville, in the county of Vanderburg, a city charter," approved January 27, 1847, reads as follows:

Section 30 re-  
cited.

"SEC. 30. The Common Council shall have the control and management of the finances, and of all the property, real and personal, belonging to said city, and shall have full power and authority for and within said city, to make, establish, alter modify, amend, and repeal by-laws, ordinances, rules and regulations, for the following purposes, and on the following subjects, to-wit:

"*First.* To restrain and prohibit all kinds of gaming, and every kind of fraudulent or immoral practice or device within said city.

"*Second.* To restrain and prohibit the selling or bartering of any spirituous liquors, or ardent spirits, or beer, porter, ale, cider, or wine, drank in or about the house, store, shop, grocery, out-house, yard, or garden of the person selling the same, unless licensed to do so, according to the by-laws and ordinances passed and ordained by said Common Council.

"*Third.* To restrain and prohibit the selling, bartering, or giving away of any ardent spirits or intoxicating liquors to any person already intoxicated, or who may be known to be in the habit of getting drunk, or to any person less than twenty-one years of age, without the consent of his or her parent, guardian, master, or mistress.

"*Fourth.* To prohibit all shows, exhibitions, and amusements which, in the opinion of the said Common Council,



are demoralizing to society, or calculated to detract from the peace and good order of said city.

*"Fifth.* To prevent drunkenness in the streets, public indecency, and riot, noise, disorder, disturbance, and disorderly assemblies.

*"Sixth.* To suppress and restrain disorderly houses of all kinds, whether tavers, groceries, coffee houses, or any other kind of house, houses of ill fame, billiards, and other gaming tables, nine or ten-pin alleys, and ball alleys, and to authorize the demolition and destruction of all instruments of gaming.

*"Seventh.* To compel the owner of any piece of ground, grocery, tallow chandlery, soap factory, tannery, stable, barn, privy, slaughter house, sewer, or other place, to cleanse the same from time to time, as often as may be deemed necessary for the health, comfort, or convenience of the inhabitants of said city, and to remove, abate, or destroy the cause which renders such house or place unhealthy or uncomfortable.

*"Eighth.* To direct the location of all powder houses, slaughter houses, tallow Chandler's shops, soap factories, distilleries, and all other houses, factories and shops that may detract from the health or comfort of the inhabitants of said city, and, if thought necessary, to prohibit altogether the erection or continuance of all or any such shops, factories, houses and establishments within the limits of said city.

*"Ninth.* To regulate the keeping and conveying of gunpowder and all other combustible and dangerous materials, and the use of candles and lights in barns and stables.

*"Tenth.* To prevent horse racing, and immoderate driving or riding of horses or other animals in the streets, and to prohibit persons having the charge of horses or mules from leaving them in the streets while in gears, without first unfastening or unhitching the chains, traces or yoke, by which they draw or hold up the tongue or shafts of the dray, wagon, cart, sled, carriage, buggy, hack, coach, gig or other vehicle or carriage to which any such horse or mule may be hitched or attached, or without, by some other means, securing such horses or mules, so that they cannot run away with any such vehicle or carriage.

*"Eleventh.* To prevent the incumbering of the streets, lanes, alleys, sidewalks, wharves, landings, market places, and public grounds and building, with carriages, drays, carts, boxes, barrels, lumber, timber, firewood, coal, or any other substance or material whatsoever, and to prohibit persons from trespassing upon or injuring public grounds and buildings, and from riding, leading, hauling or driving animals, wagons, carts, drays, carriages and other things, upon, along, or across sidewalks, or in any other manner injuring the same, and from digging up the streets, alleys, lanes, land-

ings, wharves and public commons, or in any other wise unnecessarily injuring the same.

*"Twelfth.* To regulate and determine the times and places of bathing and swimming in the Ohio river, in Pigeon creek, and in the canal, and to prohibit bathing and swimming in the Ohio river opposite said city, and within one half mile above and below the limits thereof, and in Pigeon creek within half a mile of the limits of said city, and in the canal, within said city, and within half a mile beyond the limits thereof, if the Common Council shall deem it proper to prohibit the same.

*"Thirteenth.* To restrain and punish vagrants, mendicants, street beggars and common prostitutes.

*"Fourteenth.* To restrain, regulate or prohibit the running at large of cattle, horses, swine, sheep, goats, geese, ducks, turkies, chickens and other animals, and to authorize distraining, impounding, and selling the same for the penalty incurred, and costs of proceedings.

*"Fifteenth.* To prevent, restrain, and regulate the running at large of dogs and bitches, and to authorize the destruction of the same when at large contrary to the by-laws or ordinances of the city.

*"Sixteenth.* To prohibit all persons from bringing, depositing, or keeping within the limits of said city, or within one-half mile thereof, any dead carcass or other offensive or unwholesome substance, and to require and compel the destruction or removal thereof by any person who shall be the owner thereof, or by his own act or consent have the same upon or near his premises, whether the same be a dead animal, or any part of one, putrid or unsound beef, pork, hides, fish, or skins of any kind, or other unsound or unwholesome substance whatever, and on the default of such person, to authorize the destruction or removal thereof, at his expense, by the proper officer or person.

*"Seventeenth.* To prohibit the rolling of hoops, flying of kites, playing at ball, or long bullits, shooting, or using fire arms or fire crackers, or unnecessarily any other thing, instrument, or practice having a tendency to annoy, or endanger, or injure, or destroy persons or property within said city, or to frighten teams or horses within said city.

*"Eighteenth.* To compel all persons to keep the snow, mud, ice, and dirt, and trash of all kinds, off the sidewalks, and to clean and keep clean the gutters and streets in front of, and the gutters and alleys in rear of the premises by them occupied or owned.

*"Nineteenth.* To prevent the disorderly blowing of horns, ringing of bells, crying of goods, or other things, and all other unnecessary noises to the disturbance of the citizens.

*"Twentieth.* To abate and remove nuisances, and to declare

what shall be deemed nuisances, and punishing, by suitable penalties, the person or persons causing or continuing the same, or suffering the same to remain on his, her, or their premises, or both abate and punish at discretion; and for the purpose of declaring what shall be deemed nuisances, and abating the same, or causing and compelling the same to be abated, and punishing persons for causing, continuing, or suffering the same as aforesaid, the Common Council shall have jurisdiction over both land and water one mile beyond the limits of the city, in all directions.

*"Twenty-First.* To restrain and regulate carriers and runners to and from steamboats, canal boats, and stages.

*"Twenty-Second.* To regulate and license drays, wagons, carts, hacks, and carriages which may be kept in said city to be hired or used for hire or reward.

*"Twenty-Third.* To ascertain, by survey and mark, and establish the boundaries and limits of said city, and all enlargements thereof, and of the streets, alleys, lots and blocks, and lots therein.

*"Twenty-Fourth.* To regulate the burial of the dead, to purchase and provide common burying grounds, hearses, and other things necessary to burial, and appoint one or more sextons, and prescribe his or their duties.

*"Twenty-Fifth.* To provide for the keeping of bills of mortality, and returning the same at times and places appointed for that purpose, and to impose suitable fines or penalties on physicians, sextons, and others for any default in keeping or returning the same.

*"Twenty-Sixth.* To regulate gauging, the place and manner of selling and weighing hay, the place and manner of selling and measuring or weighing wood for fuel, lime, and coal, and to appoint suitable persons to superintend and conduct the same.

*"Twenty-Seventh.* To regulate the quality of bread, and to provide for the seizure and forfeiture of bread baked contrary thereto.

*"Twenty-Eighth.* To make, establish and regulate public wells, cisterns, reservoirs, and pumps, and to prevent the unnecessary waste of water.

*"Twenty-Ninth.* To provide for the furnishing of the said city and the inhabitants thereof with water.

*"Thirtieth.* To establish and regulate public grounds.

*"Thirty-First.* To prevent the firing of guns, pistols, and all other fire-arms and fire-works within said city.

*"Thirty-Second.* To prohibit and prevent the erection of wooden buildings in such parts of said city as they may think proper.

*"Thirty-Third.* To erect and establish market houses, market places, a hospital, a council house, a city jail, engine

houses, and houses for common schools, and to regulate and govern, and from time to time enlarge, repair, remove and rebuild the same, or build new ones, and to prescribe rules and regulations for the use and management thereof, and to prescribe the time and manner of vending produce and provisions in such market houses and market places, and to prohibit the sale, by retail, of meat, vegetables, eggs, butter, chickens, turkies, geese, ducks, and other fowls, during market, hours at any other place than the market houses and market places so established and erected.

*"Thirty-Fourth.* To restrain and prevent forestalling and regrating.

*"Thirty-Fifth.* To prevent and guard against damage by fire; to purchase fire engines and fire apparatus; to organize fire companies, and regulate and govern the same, and to prescribe and regulate the duty and conduct of the members of fire companies, and of other persons, in relation to fires, and property removed into the streets or elsewhere, to prevent its destruction by fire.

*"Thirty-Sixth.* To regulate the general police of said city.

*"Thirty-Seventh.* To compel the attendance of the members of the Common Council; to appoint all officers and agents they may deem proper and necessary to carry into full effect the powers hereby conferred, and to prescribe their powers and duties, and to require them, or any or either of them, to give bond with security for the faithful discharge of such duties; and all officers and agents so appointed, shall hold their office during the pleasure of the Common Council.

*"Thirty-Eighth.* To regulate, and establish, and provide for the payment of the fees and salaries of all officers and agents by them employed.

*"Thirty-ninth.* To regulate the streets, alleys, and sidewalks, and all improvements and repairs thereof; and the said Common Council shall have the exclusive right and power of taxing persons residing in said city, and real and personal property situated therein, for the purpose of making such improvement and repairs, whether such improvements or repairs consist of grading, paving, ditching, or anything else: and no person residing in said city shall be compelled or required to work on any road without the city, nor shall any property lying or being within the city be taxed for the purpose of making, opening, improving or repairing any road or bridge without the limits of said city: *Provided*, That nothing herein contained shall prevent the Board of Commissioners of Vanderburg County from making such appropriations of the revenue of the County as are or may be authorized by law for the building, purchase or repair of bridges, either within or without said city.

*Fortieth.* To take stock in any chartered company for making roads to said city, or for watering said city, and in any company authorized or empowered by the Board of Commissioners of Vanderburg County to build a bridge on any road leading to said city; and to establish, maintain and regulate ferries across the Ohio river from the public wharves of said city: *Provided*, That no stock shall be subscribed or taken by the Common Council in any such company, unless it be on petition of two thirds of the residents of said city, who are freeholders of the city, distinctly setting forth the company in which stock is to be taken, and the number and amount of shares to be subscribed: *And provided, also*, That in all cases where such stock is taken, the Common Council shall have power to borrow money, and levy and collect a tax on all real estate, (either inclusive or exclusive of improvements, at their discretion,) for the payment of said stock.

*Forty-First.* To borrow money for the use of the city of Evansville.

*Forty-Second.* To lay out, open, and make new streets and alleys, highways and wharfs, and to alter, contract, widen, or discontinue any street, alley, or public wharf, now made or hereafter to be made in said city, subject to the rules and regulations hereinafter contained.

*Forty-Third.* To prohibit or permit and regulate the sale of horses and other animals and merchandize, and all other kinds of property, real or personal, at auction in the streets, stores, shops, or elsewhere within the city, and to appoint and license auctioneers, and regulate their conduct.

*Forty-Fourth.* To regulate all wharfs on the Ohio river, in front of or adjoining said city, whether the same be public or private, and the amount of wharfage to be charged at or for the use of the same.

*Forty-Fifth.* To levy and collect a revenue for the use of the city of Evansville, in the manner hereinafter prescribed.

*Forty-Sixth.* To prevent injuries to the inhabitants of the said city, or their property, from thieves, robbers, burglars, and all other persons violating the public peace.

*Forty-Seventh.* To establish a board of health for said city, and to invest it with such powers, and impose upon it such duties as may be deemed necessary or proper to preserve the health of said city, and to secure the inhabitants thereof from the evils, distress, and calamities of contagious, infectious, or malignant diseases, by the adoption and execution of such rules, orders, and regulations as may be deemed, by such board of health, proper to prevent the commencement, continuance, or spread of any such disease; to provide for the proper organization of such board of health, and the election or appointment of the officers thereof, and

to make such by-laws and rules, for its government and support, as shall be required by the prompt performances of its duties, and the lawful exercise of its powers.

*"Forty-Eighth.* To establish, organize, and maintain a city watch, and define the powers and prescribe the duties thereof.

*"Forty-Ninth.* To regulate all taverns, groceries, coffee houses, and ale and porter shops, houses, and cellars, and all other houses and places where beer, ale porter, wine, or cider is sold by retail, or where spirituous liquors are sold by a less quantity than a quart, and all other houses of public entertainment in said city, and all theatrical exhibitions of whatever name or nature, to which admission is obtained by the payment of money, or any other reward; and to regulate all ferries across the Ohio river from said city, or from in front thereof to the opposite shore.

*"Fiftieth.* The said Common Council shall have the exclusive power to grant licenses to tavern keepers, inn keepers, retailers of spirituous liquors by a less quantity than a quart, keepers of ale, porter, cider, and wine shops, houses, and cellars, and all other houses and places of public entertainment; and showmen and keepers and managers of theatrical exhibitions, concerts, menageries, circuses, and all other exhibitions for money or other reward; and auctioneers, keepers of ferries across the Ohio river, from or in front of said city; and persons vending at retail, goods, wares, merchandize, or personal property of any kind or description, at or upon boats or water crafts of any kind, lying within the canal within said city, or in the Ohio river, between said city and the middle of said river, whether such boat or water craft be resting upon or in anywise fastened to the shore or bottom of the river, or floating and anchored, or otherwise made stationary in the river; and in granting such licenses as by this act the Common Council are authorized to grant, said Common Council shall charge said sum or sums of money as they may think fit and reasonable, and annex to such licenses such terms and conditions as in their opinion the peace, good order and general interests of the city may require, and if any person so licensed shall be convicted of violating any such conditions, or suffering it to be done by any person in his employ, whether such conviction be upon information and proceedings had thereon to prove and establish such violation only, or in an action brought to recover the penalty prescribed for such violation, the mayor, or other officer acting as such, shall have full power and authority to suspend, for a limited time, or wholly annul such license, and enter judgment accordingly.

*Fifty-First.* To regulate and prescribe the manner of the

construction of chimneys, fire places, stove pipes, and hearths, and to compel the alteration of such as are improperly constructed; and to make and enforce all such rules, by-laws, and ordinances as may be proper or necessary to prevent the destruction of property by the careless or improper use of fire and lights, or by improperly or carelessly placing hay or any other highly combustible substances so near to a chimney, fire place, or stove, or other place where fire is kept or used, as to make it liable to be burned; and in order to enforce such rules, by-laws, and ordinances, the Common Council shall have power to appoint fire wardens and define their powers and prescribe their duties."

And whereas, it is deemed expedient to amend the fortieth clause of said section thirty, therefore,

*Be it enacted by the General Assembly of the State of Indiana:* That the said fortieth clause of section thirty of said act be amended so as to read as follows:

Fortieth clause of section thirty amended.

"*Fortieth.* The Common Council of the city of Evansville shall have power to construct or provide for the construction of works for furnishing said city and its inhabitants with water, and to furnish water for public and private use in said city, or cause the same to be furnished; and to take stock in any chartered company organized under the laws of this State, for the purpose of constructing such works and furnishing water as aforesaid; or for the purpose of making a road of any kind to said city, or for the purpose of building a bridge on any road leading to said city; and to purchase, hold and regulate the use of lands within or without the limits of the city, for cemeteries, public parks, or grounds for the amusement and recreation of the people, and for water works, and to lease, sell and convey the same at their discretion.

Common council to have power to construct or provide for construction of water works, &c.

*Provided,* That no stock in any such company shall be taken, unless the Common Council be requested in writing to take the same, by two thirds of the residents of said city, who own real estate within said city, or unless a majority of the qualified voters of said city, who shall have paid a city tax within twelve months next before voting, shall vote in favor of taking such stock at an election held for the purpose of voting on that subject exclusively, in pursuance of an order of the Common Council, fixing the time and place of holding such election, and the manner of conducting the same, and the notice to be given thereof; and whether a majority of such qualified voters are in favor of taking such stock or not, shall be determined by the legal votes actually cast at such election: *Provided, further,* That in all cases where stock shall be taken as above provided, the Common Council shall have power to borrow money, issue bonds, and levy and collect taxes in addition to the ordinary revenue, to

Proviso. Stock when to be taken by Common Council.

Further proviso.

Common council shall have power to borrow money, issue bonds, &c.

pay for such stock. All taxes so levied shall be *ad valorem*, and taxes levied to pay for stock subscribed for in pursuance of the written request of two thirds of the residents owning real estate as above provided, shall be levied upon real estate only; but taxes levied to pay for stock taken in pursuance of an election held as above provided, shall be levied upon all the real and personal estate subject to taxation in said city for city purposes, and all such taxes shall be levied and collected with, and as part of the taxes regularly and annually assessed and collected for city purposes, and subject to the same laws and regulations. And the Common Council aforesaid shall have power to establish, maintain, and regulate ferries across the Ohio river, from the public wharves of said city.

Sec. 2 recited.

SEC. 2. That section 2 of said act, which reads as follows, viz.:

"From and after the first Monday in April, A. D. 1847, the people residing in the territory mentioned in the first section of this act, shall become and be a body politic and corporate, by the name, style and title of 'The City of Evansville,' and in and by such name shall be able and capable in law and equity, to contract and be contracted with, sue and be sued, complain and defend, in any court of competent jurisdiction; they shall have power to make, have and use a common seal, and the same to alter, destroy and renew, at pleasure; to take, purchase, hold and convey such real and personal estate as the purposes of the corporation may require; to survey, make and establish the boundaries of said city, and all future enlargements of the same; to ordain, establish, enforce and put in execution, such rules, by-laws, ordinances and regulations, as shall be deemed proper and necessary for the good government of said city, and the well being of the inhabitants thereof, and generally to do all other acts and things which the good of the inhabitants of said city may require, not inconsistent with the Constitution of the United States, or the Constitution and laws of this State, and consistent with the objects of the corporation," is hereby declared to include and to have included the power to provide and furnish said city and the inhabitants thereof with gas lights, either by erecting gas works, or by making a contract or contracts with any person or persons, or company or companies, for the furnishing of said city and the inhabitants thereof, with gas lights, on such reasonable terms as may be, or may have been agreed upon between said city and such person or persons; and no contract heretofore made by the corporate authorities of said city with any person or persons, firm or corporation, providing for the furnishing said city and the inhabitants thereof with gas lights, shall be construed or held to be invalid, on the ground of a want of power on

Sec. 2 declared  
to include power  
to provide and  
furnish city and  
inhabitants  
with gas lights.



the part of said city to make the same; but all such contracts heretofore made by said city for that purpose, which do not grant to the person or persons, firm, company or corporation with whom made, the exclusive privilege for more than fifty years from the date thereof, of laying pipes for conducting gas under the streets, lanes, alleys, public grounds and thoroughfares of said city are, so far as concerns the power of said city to make the same, legalized, and shall be deemed as valid as if made after the passage of this act.

SEC. 3. An emergency is hereby declared for the immediate taking effect of this act, and the same shall, therefore, be in force from and after its passage. Emergency.

## CHAPTER XI.

AN ACT to amend sections nine, ten, eighteen, nineteen, twenty-three, twenty-four and thirty-three of an act, entitled "An act to incorporate the town of Vernon, Jennings county, Indiana," approved January 22, 1851.

[APPROVED DECEMBER 20, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section nine of the above entitled act, which reads as follows:

"Sec. 9. A majority of the council shall form a quorum and meet upon their own adjournment. The mayor, or, in his absence, the recorder, may call special meetings of the council, and when met shall have full power to enact and publish all such laws and ordinances as to them shall seem necessary, relative to the regulation of streets, alleys and highways, and keeping the same in repair in such manner as they shall deem advisable; and for the erection of market houses, regulating markets, and for restraining swine from running at large within the bounds of the corporation; and for the preservation and safety of buildings; for cleaning chimnies; for preventing and extinguishing fires within the limits of said corporation; for setting out shade trees and for protecting the same; to impose reasonable fines upon all persons transgressing against the laws and ordinances of the corporation; and to enact and publish all such other laws and ordinances as the said council may deem necessary and proper for the health, safety, cleanliness, convenience and good government of said corporation and the inhabitants thereof, not contrary to the Constitution and laws of the United States nor of the State of Indiana: *Provided*, That all laws and ordinances which shall be passed by said council shall be published at length on the door of the Court House or at some public place in the town of Vernon, or in some newspaper published in said town, at least ten days, after which said laws and ordinances shall be in force until repealed or modified by the proper authority," be amended so as to read as follows: Sec. 9 recited.

Sec. 9 as amended. Majority of council to form a quorum and to meet upon their own adjournment, &c.

Power of council to enact and publish laws and ordinances.

**SEC. 9.** A majority of the Council shall form a quorum, and meet upon their own adjournment. The mayor, or, in his absence, the recorder, may call special meetings, and whenever met, shall have full power to enact and publish all such laws and ordinances, as to them shall seem necessary, relative to the opening, repairing, graveling, turnpiking of streets, as shall be necessary to keep said streets and all alleys in said town open for the free use of the public; to declare what shall constitute a nuisance, and to prevent and abate the same; and for the erection of market houses, regulating markets, and for restraining and preventing swine from running at large within the bounds of the corporation; and for the preservation and safety of all buildings, whether public or private, for cleaning chimneys; to regulate the speed of railroad trains within said corporation, and to prevent the assemblage of boys at the depot thereof; for preventing and extinguishing fires within the limits of said corporation; for setting out shade trees and protecting the same; to build bridges at said town; to encourage enlistments; to encourage education; to make such donations as may to them seem proper and just for the encouragement of any literary, agricultural or scientific institution located within said corporation, and for that purpose shall possess full powers, by ordinance, to levy all taxes necessary to enable them to pay such donations or appropriations, and may issue the bonds of the corporation therefor, signed by the mayor and recorder thereof; to impose fines upon all persons transgressing against the laws and ordinances of the corporation; and to enact and publish all such other laws and ordinances as the said council may deem necessary and proper for the health, safety, cleanliness, convenience and good government of said corporation, and the inhabitants thereof, not contrary to the Constitution of the United States, nor of the State of Indiana: *Provided*, that all laws and ordinances which shall be passed by said council, shall be published at length, on the door of the Court House, or at some other public place, in the town of Vernon, or in some newspaper published in said town, at least five days, after which said laws and ordinances shall be in force until repealed or modified by the proper authority.

Laws and ordinances shall be published.

**SEC. 2.** That section ten of said act, which reads as follows:

Sec. 10 recited.

"Sec. 10. It shall be the duty of the mayor to preside at the meetings of the council, and in case of a tie to give the casting vote, and in his absence, the council shall elect a president *pro tem.* of their own number, to sign all laws, ordinances and decrees of a public nature, also, to sign all the by-laws and minutes of their proceedings. The mayor shall exercise all the powers and duties of a justice of the peace of Jennings county, both in civil and criminal

cases, and he shall be governed in the exercise of these duties in all respects by the laws of the State regulating the duties and jurisdiction of justices of the peace. He shall also have cognizance and jurisdiction of all violations of the ordinances of the corporation, and upon his own knowledge, or upon the complaint made upon oath by any competent witness, that any person has violated any ordinance, it shall be his duty to institute an action of debt in the name of the corporation, against the person accused of such violation, by issuing his warrant, directed to the marshal, commanding him to bring such person before him to answer such accusation or complaint, and if the charge shall be sustained by competent testimony, he shall render judgment against the defendant for the sum prescribed in the ordinances of the corporation for such violation, with costs, and from such judgment an appeal may be had to the Circuit Court of said county, or execution may be stayed for sixty days; and all executions, when issued, shall be returnable within thirty days, and in these proceedings, and in all other proceedings necessary to enforce such judgment, the mayor shall be governed by the laws of the State regulating the jurisdiction and duties of justices of the peace in criminal cases, and the marshal shall be governed by the laws regulating the duties of constables in similar cases, with the exceptions herein expressed, shall be governed by the laws of the State regulating the jurisdiction and duties of justices of the peace, in criminal cases, and the marshal shall be governed by the laws regulating the duties of constables in similar cases, with the exceptions herein expressed," be, and the same is hereby, amended to read as follows:

SEC. 10. It shall be the duty of the mayor to preside at the meetings of the council, and, in case of a tie, to give the casting vote; and in his absence the council shall elect a president *pro tem.* of their own number, to sign all laws, ordinances, and decrees of a public nature, also to sign all the by-laws and minutes of their proceedings. The mayor shall also have and exercise the same jurisdiction, duties, and powers as a justice of the peace, for the punishment of misdemeanors, and the preliminary examination of all felonies, provided and declared by the State of Indiana, and shall, in all such cases, be governed in the exercise of this jurisdiction, duties and powers, in all respects, by the laws of the State regulating the duties of a justice of the peace. And he shall also have and exercise the same jurisdiction, duties, and powers of a justice of the peace, in civil cases, and shall be governed in the exercise of those powers, jurisdiction, and duties, by the laws in force regulating the duties of justices of the peace. He shall also have cognizance and jurisdiction of all violations of the ordinances of the corporation, and upon the filing of an affidavit, by any competent witness, that any person has violated any ordinance, it shall be his duty to issue a warrant for the arrest of the person so offending, directed to the marshal, commanding him to bring such person before him to answer such accusation, and if the allegations in said affidavit shall be sustained by competent evidence, he shall assess such fine

Section 10 as amended.  
Mayor to preside at the meetings of the council.  
President *pro tem.*

Actions to be in the name of the Town of Vernon.

Fee of Prosecuting Attorney.  
Fines, &c.

against the defendant as to him shall seem just and proper, within the limits prescribed by the ordinances of said incorporation. Said action shall be in the name of "The Town of Vernon," and the fine and cost, including a fee of five dollars to the attorney prosecuting said cause, so assessed, shall in all respects be collected as in cases of fines assessed for the violation of the laws of the State of Indiana; and when collected by said mayor or marshal, shall be paid to the treasurer of said incorporation, for the benefit of common schools within said corporation, and shall be paid out by said treasurer to such schools as may be designated by the Common Council, provided, that an appeal shall, in all cases, lie, within ten days, to the Court of Common Pleas.

SEC. 3. That section 18 of said act, which reads as follows :

Sec. 18 recited.

"Sec. 18. The mayor and council shall have power to levy and collect, annually, from each male inhabitant of the corporation, between the ages of twenty and fifty years of age, a poll tax not exceeding one dollar, and on real estate a tax not exceeding one *per centum* on its valuation, and also on personal property not exceeding one-third of one *per centum* for the use of the corporation: *Provided*, that no poll tax be levied so long as the State law authorizes a levy for road purposes upon polls;" be amended to read as follows:

Sec. 18 amended.  
Mayor and council shall have power to levy and collect tax, &c.

SEC. 18. The mayor and council shall have power to levy and collect such tax on all personal property, of whatever kind or description, owned, used, enjoyed, or held in trust, by any person within said corporation; and, also, upon any real estate within such corporation; and, also, such a poll tax upon the male inhabitants, within such incorporation, over the age of twenty-one, as may be necessary to pay and liquidate any indebtedness, appropriations, or donations made and authorized by the ordinances of said incorporation.

SEC. 4. That section nineteen of said act, which reads as follows :

Sec. 19 recited.

"Sec. 19. It shall be the duty of the assessor, annually, in the month of April, to call upon each and every person residing within the taxable part of said corporation, for a list of his, her, or their real and personal property within the same, the value of which he shall enter in his assessment roll, opposite the name of the owner or person liable to be taxed, designating in separate columns the value of the real estate, with its appropriate description, and the aggregate value of each person's personal property, the whole to be valued at a fair cash valuation. And for the purpose of ascertaining the value of lands, lots, or parts of lots, with their improvements, the assessor shall, in the year 1851, and bi-ennially thereafter, call to his assistance two discreet resident freeholders, who, after being sworn faithfully and impartially to discharge their duties as such, shall, with said assessor, proceed to value the same. And should any person refuse or neglect to give in the value of his personal property, or the property in his possession liable to be taxed, when so called on, the assessor shall estimate the value thereof from the best information he can obtain, which shall be conclusive against

all residents; and when he cannot obtain the name of the owner of any property, he shall enter the same upon his book as unknown. And said assessor shall, on or before the first Monday in May, make return of his assessment roll to the recorder of said corporation, which shall be a lien upon the property so assessed for the tax of the current year, from and after the first Monday of April, until paid," be amended to read as follows:

SEC. 19. It shall be the duty of the assessor, annually, in the month of April, to call upon each and every person residing within the taxable part of said corporation, for a list of his, her or their personal property within the same, including notes, accounts, money on hand or on deposit, and all property which, by the laws of the State of Indiana, is taxable, the value of which he shall enter in his assessment roll, opposite the name of the owner or person liable to be taxed, designating in separate columns the value of the real estate with its appropriate description, and the aggregate value of each person's personal property, the whole to be valued at a fair cash value. And should any person neglect or refuse to give in the value of his personal property, or the property in his possession liable to be taxed, when so called on, or any part thereof, or should give a false or fraudulent value thereof, the assessor shall estimate the value thereof from the best information he can obtain, to which he shall add one hundred per cent., which shall be conclusive against all residents, and when he cannot obtain the name of the owner of any property, he shall enter the same in his books as unknown. And said assessor shall, on or before the first Monday in May, make a return of his assessment roll to the recorder of said incorporation, which shall be a lien upon the property so assessed for the tax of the current year, from and after the first Monday in April until paid: *Provided*, that any person who shall have furnished a list of his, her or their property, or whose real estate may have been appraised, may, at any time before the 1st of July of each year, appear before the council and apply for a reduction of their assessment, which the council may allow and grant if the same shall be reasonable and just.

Section 19 as amended.  
Duty of assessor.

*Provided.*

Reduction of assessment.

SEC. 5. That sections twenty-three and twenty-four of said act, which reads as follows:

"Sec. 23. That in the sales of lands or lots for taxes or corporation purposes, the marshal and recorder shall be governed by the 12th chapter of the Revised Statutes of 1843, which is hereby adopted and made a part of this act, from the 91st to the 123d sections, inclusive, excepting the 120th section, and the latter clause of the 97th section, and excepting the modifications in the next succeeding section.

Sec. 23 recited.

"Sec. 24. For the word 'auditor,' whenever it may occur in the above described sections, shall be substituted 'recorder,' and for the word 'treasurer' shall be substituted 'marshal.' The moneys

Sec. 24 recited.

required to be refunded by the 116th and 117th sections, from the county treasury, shall be paid from the treasury of the corporation;" be amended to read as follows:

Delinquent taxes, how paid.

SEC. 23. Delinquent taxes may, at any time before land is sold therefor, with the penalty, interest and cost thereon, be paid as follows: Into the town treasury, at any time. In case of such payment into the town treasury, the person paying shall file the treasurer's receipt with the marshal, and take his receipt in place thereof.

In case of levy or sale of property for delinquent taxes after such payment is made.

SEC. 24. Any levy or sale of property for delinquent taxes, made after such payment into the town treasury, shall be valid, if made before the filing of such receipts with the marshal; but after the filing of such receipt, proceedings on such levy shall be stayed, on payment of costs and charges; or, if property shall have been sold, the owner shall be entitled to a return of the proceeds after deducting costs and charges.

Recorder to make out and report a list of lots returned and remaining delinquent.

SEC. 25. After the first Monday in October, annually, the recorder shall make out and record in a book to be provided for that purpose, a list of all lots returned and remaining delinquent for taxes, describing such lots as the same are described in the tax duplicate, and charging them with the amount of delinquent tax, with interest, and a penalty of ten per centum on such taxes, also with the taxes of the current year, and shall certify to the correctness thereof, with the date when the same was recorded, and sign the same officially.

Recorder shall cause a copy of such list to be published, &c.

SEC. 26. He shall cause a copy of such list to be immediately published for four weeks successively, once in each week, in some newspaper having general circulation in his town, if any there be, or he may have the same printed in handbill form, if the same can be done cheaper than to publish the same in a newspaper, otherwise, by three copies posted up in public places in said town, to which shall be attached, and in like manner published, a notice that so much of said ground as may be necessary to discharge the taxes, interest, and charges which may be due thereon, or due from the owner thereof, at the time of sale, will be sold at public auction, in the Court House in such town, on the first Monday in December next thereafter.

Recorder to insert at the foot of such list copy of such notice.

SEC. 27. The recorder shall, on or before the day of sale, insert, at the foot of such list on his record, a copy of such notice, and certify on such record, immediately following such notice, the manner in which the same was published, giving the name of the paper in which the same was published, and the length of time during which it appeared.

Marshal to commence sale on day mentioned.

SEC. 28. On the day mentioned in the notice, the marshal shall commence the sale of such lots, and shall continue the same from day to day until so much of each lot assessed, or belonging to each person assessed, shall be sold as will pay

the taxes, interest, and charges thereon, or chargeable to such person in said corporation.

SEC. 29. The person offering, at said sale, to pay the required sum for the least quantity of any lot, shall be considered purchaser of such quantity.

Person offering required sum for least quantity of lot, to be considered purchaser.

SEC. 30. When more than one lot belonging to the same person shall be for sale at the same time in said corporation, each such lot, as offered, shall be for the payment of the whole sum due from such owner on all delinquent lots or otherwise; and if no person shall bid off a part or the whole of such lot for the sum required, the said lot shall then be offered to the highest bidder, and if any amount shall yet remain due, the other lots shall be proceeded with in like manner, until the required sum shall be realized.

In case part of lot will not bring required sum, the whole of lot to be sold to highest bidder, &c.

SEC. 31. When less than the whole of any in-lot or out-lot of said corporation shall be sold, the part sold shall be taken off and laid out, so that it shall extend from the main or principal street, road or alley, forming the most convenient front to such lot, to the rear of such lot, and to bound the same with lines as nearly parallel with the out-lines of such lot as practicable.

In case the whole of in-lot or out-lot is sold.

SEC. 32. The purchasers at such sale shall immediately pay the amount of their respective bids to the marshal; or on their failure so to do, the lot shall be again forthwith offered for sale, the same as if no sale had been made; and the purchasers so failing, shall forfeit and pay, for the use of the treasury of the town, for the benefit of common schools therein, a penalty of twenty five per centum on the amount of their bids, to be recovered by action of debt, in the name of the marshal, before the mayor of said town.

Purchasers shall immediately pay amount of their bid. On failure to do so, lots to be re-offered, and purchasers shall forfeit 25 per centum, &c.

SEC. 33. The recorder shall attend as the clerk of the sale of such delinquent lots, and shall enter the same on a sufficient record book, giving a description of the proper tract or lot, showing how much of each was sold, to whom, and the price, or whether the same remained unsold.

Recorder to act clerk at sale, &c.

SEC. 34. After payment shall have been made, the recorder shall give to the purchaser a certificate in writing, describing the lot so purchased, the sum paid, and the time when the purchaser will be entitled to a deed; which certificate shall entitle the holder to the possession of the premises therein described.

After payment, recorder to give certificate to purchaser, showing, &c.

SEC. 35. The said certificate shall be assignable; but no assignment thereof shall be valid unless acknowledged before some justice of the peace, or the mayor, and recorded in such recorder's office of said town.

Said certificate to be assignable.

SEC. 36. The owner or occupant of any lot sold for taxes, or any other person, may redeem the same at any time within two years after the last day of such sale, by paying to the marshal, for the use of the purchaser, his heirs or assigns,

Lots sold may be redeemed.

the sum mentioned in his certificate, and the amount of all subsequent taxes paid, with fifty per centum on the whole sum, and interest from the date of purchase, or from the time of payment.

Infants et al. may redeem lots sold.

SEC. 37. Infants, idiots, femmes covert and insane persons, may redeem any lots belonging to them, sold for taxes within two years after the expiration of such disability.

In case improvements shall have been made.

SEC. 38. In case any lasting and valuable improvements shall have been made by the purchaser at any sale for taxes, or by any person claiming under him, and the lot on which the same shall have been made shall be redeemed as aforesaid, the premises shall not be restored to the person redeeming until he shall have paid or tendered to the adverse party the value of such improvements; and if the parties cannot agree on the value thereof, the same proceedings shall be had in relation thereto as shall be prescribed in the law existing at the time of such proceedings, for the relief of occupying claimants of land.

Compensation for improvements not to be allowed in certain cases.

Person claiming an undivided part of lot, may redeem.

SEC. 39. No compensation shall be allowed for improvements made before the expiration of two years from the date of the sale for taxes. Any person claiming an undivided part of any lots sold for taxes, may redeem the same on paying such proportion of the purchase-money, interest, penalty and subsequent taxes, as he shall claim of the land sold.

Person claiming an undivided share, &c., may redeem.

SEC. 40. Any person claiming an undivided share in any lot, out of which an undivided part shall have been sold for taxes, may redeem his undivided share by paying such proportion of the purchase money, interest, penalty and subsequent taxes, as he claims of the land sold.

Person claiming a specific part, &c., may redeem.

SEC. 41. Any person claiming a specific part of any lots sold for taxes, may redeem his specific part by paying such proportion of the purchase money, interest, penalty and subsequent taxes, as his quantity of ground shall bear to the whole quantity sold.

Person claiming specific part out of which an undivided part shall have been sold, may redeem.

SEC. 42. Any person claiming a specific part of any lots, out of which an undivided part shall have been sold for taxes charged on the whole tract or lot, may redeem his specific part by paying such proportion of purchase money, interest, penalty, and subsequent taxes, as his quantity of ground shall bear to the whole quantity taxed.

In case of person claiming a specific part of lots out of which a specific part belonged to some other person, shall have been sold, &c.

SEC. 43. Any person claiming a specific part of any lots, out of which a specific part belonging to some other person shall have been sold for taxes charged on the whole tract or lot, may exonerate himself from all liability to contribute to the owner of the part sold, by paying to the marshal, at any time before the expiration of the time allowed for redemption, such proportion of purchase money, penalty and interest, as his quantity of ground will bear to the whole quantity taxed; and such payment shall operate as a redemption of a proportionate part, according to the amount paid, of the lot sold.



SEC. 44. In every case of a partial redemption, pursuant to either of the last five sections, the quantity sold shall be reduced in proportion to the amount paid on such partial redemption, and the recorder shall convey accordingly.

Partial redemption.

SEC. 45. Whenever the lots of any one person shall be sold for taxes assessed conjointly on the lots of such persons and the lots of another person, [and] such other person shall not pay his due proportion, the person whose lot shall be sold may redeem the same, on paying the amount due the purchaser; and he shall be entitled to recover from such other person whose lots were assessed with his, a just proportion of the redemption money so paid, with lawful interest from the time of such redemption; but no suit shall be brought for the recovery of such proportion until after the expiration of the time allowed for redemption.

In case of lots sold for taxes assessed conjointly.

SEC. 46. If such owner shall not redeem the lot sold, and the same shall be conveyed by the recorder, such owner may recover from such other person the same proportion of the value of the lot sold and conveyed, that he ought to have paid of the tax, interest and charges, for which the lot shall have been sold.

If owner shall not redeem lot sold, the recorder to convey the same, &c.

SEC. 47. Every judgment obtained under either of the two last sections, shall have priority as against the lot of the defendant therein, on which the tax was assessed, and for which such proportionate part ought to have been paid, to all mortgages executed, and all judgments recovered since the time when such taxes were assessed.

Judgments obtained.

SEC. 48. If no person shall redeem such ground within two years, at the expiration thereof, and on production of certificate of purchase, and in case the certificate covers only a part of the tract or lot of land, then accompanied with a survey of such part, made by the county surveyor, the recorder shall execute to the purchaser, his heirs or assigns, in the name of the town, a conveyance of the real estate so sold, which shall vest in the grantee an absolute estate in fee simple, subject, however, to all the claims which the town may have thereon for taxes, or other liens or incumbrances.

Lots sold, if not redeemed within two years, recorder to execute conveyance to purchaser.

SEC. 49. When two or more parcels, tracts or lots of land are sold for the non-payment of taxes to the same purchaser or purchasers, or the same person or persons shall in any wise become the owners of the certificate thereof, all of such lots shall be included in one deed.

Two or more lots shall be included in certain cases.

SEC. 50. Such conveyance shall be executed by the recorder, under his hand and seal, and the execution thereof shall be witnessed by the marshal, and such deed shall be conclusive evidence of the truth of all the facts therein recited, with the exception of the fact that the payment of the taxes, for which the lots named therein were sold, had not been made by or in behalf of the proper owner of such

Mode of conveyance.

Form of deed.

lots in due time, and to the proper officer, of which last named fact, such deed shall be held as prima facie evidence, and no more, and such deed shall be in the following form, as nearly as the nature of the case will admit, namely: Whereas, A. B. did, on the — day of —, 18—, produce to the undersigned, C. D., recorder of the town of Vernon, in the State of Indiana, a certificate of purchase in writing, bearing date the — day of —, 18—, signed by E. F., who, at the last mentioned date, was recorder of said town, from which it appears that the said A. B. did, on the — day of —, 18—, purchase, at public auction, at the door of the Court House in said county, the tract, lot or parcel of land lastly in this indenture described, and which lot was sold to —, for the sum of — dollars and — cents, being the amount due on the following tracts or lots of land returned delinquent in the name of G. H., for the non-payment of taxes, costs and charges for the year —, namely: [here set out the lots offered for sale.] which said lots had been recorded, among other lots, in the office of said recorder as delinquent for the non-payment of taxes, costs and charges, due for the year last aforesaid, and legal publication made of the sale of said lots, on the said day of —, 18—; and it appearing that the said A. B. is the legal owner of said certificate of purchase, and the time fixed by law for redeeming the lot therein described having now expired, and none of the saving clauses of the — sections of — applying to this lot or parcel of land, and neither the said G. H., nor any person in his behalf, having paid or tendered the amount due the said A. B., on account of aforesaid purchase, and for taxes by him since paid, and the said A. B. having demanded a deed for the lot mentioned in said certificate, and which was the least quantity of the lot above described that would sell for the amount due thereon for taxes, costs and charges as above specified, and it appearing from the records of said recorder's office, that the aforesaid lots were legally liable for taxation, and had been duly assessed and properly charged on the duplicate, with the taxes for the years —; therefore, this indenture, made this — day of —, 18—, between the town of Vernon, by C. D., recorder of said town, of the first part, and the said A. B. of the second part, witnesseth: That the said party of the first part, for and in consideration of the premises, has granted, bargained, and sold unto the said party of the second part, his heirs and assigns forever, the lot or parcel of land mentioned in said certificate, and described as follows, namely: [here set out the particular lot sold;] to have and to hold the said last mentioned lot, with the appurtenances thereunto belonging, to the said party of the second part, his heirs and assigns forever, in as full and

ample a manner as the said recorder of said town is empowered by law to sell the same. In testimony whereof, the said C. D., recorder of said town, has hereunto set his hand and affixed the seal of said corporation, the day and year last above written.

[Seal.]

State of Indiana, \_\_\_\_\_ County, ss:

Before me, the undersigned, \_\_\_\_\_, in and for said county, this day personally came above named C. D., recorder of said town, and acknowledged that he signed and sealed the foregoing deed, for the uses and purposes therein mentioned. In witness whereof, I have hereunto set my hand and seal, this \_\_\_\_\_ day of \_\_\_\_\_, 18—.

SEC. 51. In case circumstances should exist requiring any variation from the foregoing form in the recital part thereof, the necessary change may be made by the recorder executing such deed; and the same shall not be vitiated by any such change, provided the substance be retained.

Recorder may vary form of deed when necessary.

SEC. 52. In making deeds to purchasers of lots sold for taxes, the recorder shall not be compelled to include more than five distinct lots in one deed; and in case two or more deeds be made to the same person, the recorder shall be entitled to demand and receive from such persons seventy-five cents for the first deed, and fifty cents for each additional one.

Recorder not compelled to include more than five distinct lots in one deed.

Recorder's fees for executing deeds.

SEC. 53. Whenever the recorder shall discover, prior to the conveyance of any lot sold for taxes, that the sale was for any cause whatever invalid, he shall not convey such lot; but the purchase money, and interest thereon, shall be refunded out of the town treasury to the purchaser, his representatives or assigns, on the order of the recorder; and such lot, if originally liable to taxation, and being still delinquent, shall be again placed on the delinquent list, and the amount so refunded, with interest, be collected as in other cases.

Where the sale is void, lot shall not be conveyed but purchase money shall be refunded.

SEC. 54. No sale or conveyance of lot for taxes shall be valid, if at the time of being listed such lot shall not have been liable to taxation; or, if liable, the taxes thereon shall have been paid before sale, and in all such cases the money paid by the purchaser at such void sale shall be refunded out of the town treasury, on the order of the town recorder.

Sale of lot not valid if not liable for taxes, or if taxes have been paid before sale, &c.

SEC. 55. If any conveyance for taxes shall prove to be invalid, and ineffectual to convey title for any other cause than those enumerated in the preceding section, the lien which the town has on such lot shall be transferred to and vested in the grantee, his heirs and assigns, who shall be entitled to recover from the owner of such lot, the amount of taxes, interest and penalty legally due thereon at the time of sale, with interest, together with the amount of all subsequent taxes paid, with interest, and such lot shall be bound for the payment thereof.

In case of invalid conveyance, lien to be transferred to grantee, &c.

Sale of lot not to be invalid where not charged on duplicate to proper owner.

Recorder to make deeds for lots under former law, where the same has already been sold.

When conveyances are delivered, certificates shall be cancelled, &c.

Recorder shall keep register, &c.

When lots are redeemed, recorder shall insert memorandum, &c.

In case sales are not perfected, &c.

Lots to be offered annually, &c.

Record of recorder to be prima facie evidence of facts therein contained.

SEC. 56. The sale of lots for taxes shall not be invalid on account of such lots having been listed or charged on the duplicate in any other name than that of the rightful owner.

SEC. 57. The Recorder is hereby authorized to make deeds for lots sold for taxes under any former law, when the same remains yet to be done; and the deeds so made shall be good and valid as if made by the person authorized under any such former law to make them.

SEC. 58. When conveyances are delivered for lots sold for taxes, the certificate thereof shall be cancelled and filed away by the Recorder, and in case of the loss of any certificate, on being fully satisfied thereof by due proof, the Recorder may execute and deliver the proper conveyance, and file such proof in his office.

SEC. 59. A register shall be kept by the Recorder in his office, containing a brief description of the lots by him conveyed on sale for taxes, the name of the person charged therewith, the date of sale, the name of the purchaser, the amount for which sold, the name of the grantee in the deed, and the date of its execution.

SEC. 60. When lots sold for taxes, or any portions thereof, shall be redeemed, the Recorder shall insert a memorandum of such redemption, the quantity or description of the portion redeemed, if not the whole, the date thereof, and by whom made, on his record of sales of lots for delinquent taxes, and sign the same officially, and shall likewise give a certificate thereof to the person redeeming.

SEC. 61. In case sales of any lots for taxes shall not be perfected for want of bidders, the same shall be considered as forfeited to the town, to be disposed of as the Common Council shall hereafter by law direct, and until so disposed of, or redeemed, shall be continued, on the duplicate, charged with all arrearages for which it was so forfeited, and interest; and shall be annually assessed and charged with all accruing taxes, penalties and interest, as other lots.

SEC. 62. Such lots shall be annually offered for sale with, and on the same terms as, other delinquent lots; and until sold for the amount of all arrearages, may be redeemed on payment of the same into the town treasury, by the owner or owners thereof; and such payments shall be proceeded with and certified as provided in this act.

SEC. 63. The records made by the Recorder respecting delinquent lots, the manner of advertisement of sales thereof, the sales made of the same, and the conveyances thereof executed, and all copies of such records, duly certified to be such by the proper Recorder, under his seal of office, shall be received as prima facie evidence of the facts contained therein.

SEC. 6. That section 33 of the above entitled act, which reads as follows:

"Sec. 33. The territory included within the boundary of said corporation shall constitute one of the road districts of Vernon Township, which shall be under the control of the mayor and council, to be worked by the street commissioner, who is hereby invested with all the authority and immunities of a supervisor of roads, and shall be subject to the same liabilities for neglect of duty; and it shall be the duty of the auditor of Jennings county, annually, to deliver to said street commissioner a list of hands and taxes assessed for road purposes in said district, in like manner as he does to supervisors of roads, and the said street commissioner shall work out the same and make like report to the auditor, as is required of supervisors," be amended to read as follows:

SEC. 33. The territory included within the bounds of said corporation, and such other territory as the county commissioners of Jennings County may add thereto, not exceeding one mile from the Court House, shall constitute one of the road districts of Vernon Township, which shall be under the control of the mayor and council, to be worked by the street commissioner, who is hereby invested with all the authority and immunities of a supervisor of roads, and shall be subject to the same liabilities for neglect of duty. And it shall be the duty of the auditor of said county, annually, to deliver to said street commissioner a list of hands and taxes assessed for road purposes in said district, in like manner as he does to supervisors of roads, and the said street commissioner shall work out the same, and make like report to the auditor as is required of supervisors.

SEC. 7. Whereas an emergency exists for the immediate taking effect of this act, therefore the same shall be in force from and after its passage.

## CHAPTER XII.

AN ACT to amend the 5th, 14th and 17th sections of an act, entitled an act incorporating the town of Huntingdon, approved February 16th, 1848.

[APPROVED DECEMBER 21, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That section five of an act, entitled  
G. L.—7

an act incorporating the town of Huntingdon, approved February 16th, 1848, which reads as follows, to-wit:

Sec. 5 recited.

"Sec. 5. That four of said trustees and the mayor or recorder shall constitute a quorum, and shall and may, from time to time, hold a Common Council, at such places as the mayor or recorder shall appoint, and shall have full power and authority to enact and publish all such laws and ordinances, as to them shall seem necessary, relative to the regulation of the streets, alleys and highways, keeping the same in repair by cleaning, raising, draining, or turnpiking, or otherwise, and for causing and requiring by taxation or otherwise, owners of in-lots to pave or McAdamize the sidewalks in front of their respective lots in such parts of said corporation as the said Common Council shall, from time to time, prescribe, and for establishing and regulating markets, and for restraining swine from running at large within said corporation belonging to the inhabitants thereof, on petition, and also for preventing teams from standing on the street crossings from sidewalk to sidewalk, and for the preservation and safety of buildings, for the cleaning chimneys, for preventing or extinguishing fires within the limits of said corporation, to impose reasonable fines upon all persons transgressing against the laws and ordinances made as aforesaid, and to enact and publish all such other laws and ordinances as the said Common Council shall deem necessary and proper for the health, safety, cleanliness, convenience and good government of said corporation, and the inhabitants thereof: and also to pass all such other ordinances that may be necessary to carry the provisions and intent of this act into full and complete effect; which said ordinances shall not be contrary to the Constitution and laws of the United States, or of this State, all of which laws and ordinances shall be deposited with and preserved by the Recorder. *Provided*, that all laws and ordinances which shall be passed by said Common Council shall be published at length on the door of the court house in Huntingdon, or in a newspaper published in Huntingdon, at least ten days, by order of said Common Council, after which publication, in manner as aforesaid, such laws and ordinances shall be and remain in full force until repealed or modified by proper authority, and *provided, also*, that nothing in this act contained shall be so construed as to authorize any cattle, sheep, hogs or other animals belonging to any person who is not an inhabitant of said corporation, to be abused, taken up or sold for coming in or passing through the bounds of said corporation," be amended so as to read as follows:

Section 5 as amended.  
Quorum.

Time and place of holding Common Council.

Power of Common Council.

SEC. 5. That four of said trustees and the mayor or recorder shall constitute a quorum, and shall and may, from time to time, hold a Common Council, at such places as the mayor or recorder shall appoint; and shall have full power and authority to enact and publish all such laws and ordinances, as to them shall seem necessary, relative to the regulations of streets, alleys, and highways, keeping the same in repair, by cleaning, raising, draining, turnpiking or otherwise; and for causing and requiring, by taxation or otherwise, owners of lots to grade and McAdamize, or pave the sidewalks and streets in front of their respective lots, in such part or parts of the corporation as the said Common Council shall, from time to time, prescribe; for establishing and regulating markets, and for restraining

swine, belonging to the inhabitants of said town, from running at large within the limits of said town; also, for preventing teams from standing on the streets at crossings from sidewalk to sidewalk, and for the preservation and safety of buildings, for cleaning chimneys, for preventing or extinguishing fires within the limits of said corporation, to impose reasonable fines against persons transgressing the laws and ordinances made as aforesaid, and to enact and publish all other laws and ordinances as the Common Council shall deem necessary and proper for the health, safety, cleanliness, convenience, and good government of said corporation and the inhabitants thereof; and, also, to pass such other ordinances that may be necessary to carry the provisions and intentions of this act into full and complete effect, which said ordinances shall not be contrary to the constitution and law of the United States, or of this State, all of which laws and ordinances shall be deposited with, and preserved by the recorder: provided, that all laws and ordinances which shall be passed by said Common Council, shall be published at length on the door of the Court House in Huntingdon, or in a newspaper printed in said town, after which publication, in manner aforesaid, such laws and ordinances shall be and remain in full force until repealed or modified by the proper authority; and provided also, that nothing in this act contained shall be so construed as to authorize any person to abuse, take up, or sell any cattle, sheep, hogs, or other animals belonging to any person not an inhabitant of said town when such animals come into or pass through said town.

Laws and ordinances to be deposited with recorder.

Laws and ordinances to be published.

Cattle, &c., belonging to non-residents of city not to be taken up and sold.

SEC. 2. That section fourteen of said act, which reads as follows:

"SEC. 14. That [said] Common Council shall have power to assess a tax, and shall annually, on or before the first Monday of June, certify to the auditor of Huntingdon county, the amount per centum they require levied for the use of said corporation and property within the limits of said corporation, (as is subject by the laws of this State to taxation for State and county and their purposes) to be levied and collected by the officers of said county in the same manner as other taxes are levied and collected, and said notice shall specify the per centum that will be required to be assessed on the valuation of such property, which shall in no case exceed one half of one per centum on the appraised value of such taxable property; and it shall be the duty of said auditor to levy the tax so required for corporation purposes, which shall, by the auditor, be exhibited in his duplicate in a distinct column, made for that purpose, in the same manner as is required by law for levying taxes for township purposes; and said tax so levied for corporation purposes, and all those monies appropriated or to be collected by virtue of this act, shall be collected and paid over by the county treasurer to the treasurer of the corporation on the order of the county auditor, after deducting and retaining such per centum on the amount so

Sec. 14 recited.

collected as is by law allowed for collecting the other taxes of said county," be amended to read as follows:

Section 14 as amended.  
Common council  
to have power to  
assess a tax.

Tax how collected.

Auditor to levy  
tax, &c.

Taxes to be paid  
over by county  
treasurer to  
treasurer of corporation, &c.

SEC. 14. The said Common Council shall have power to assess a tax, and shall, annually, on or before the first Monday in June, certify to the auditor of Huntingdon county, the amount per centum they require levied for the use of said corporation on property within the limits thereof, (as is subject by the laws of this State to taxation for State, county and other purposes) to be levied and collected by the officers of said county, in the same manner as other taxes are levied and collected, and said notice shall specify the per centum that will be required to be assessed on the valuation of such property, which shall in no case exceed one per centum on the appraised value of such taxable property, and it shall be the duty of said auditor to levy the tax so required for corporation purposes, which shall, by the Auditor, be exhibited on his duplicate, in a distinct column, made for that purpose, in the same manner as is required by law for levying taxes for township purposes, and the taxes so levied for corporation purposes, and all those monies appropriated, or to be collected by virtue of this act, shall be collected and paid over by the county treasurer to the treasurer of the corporation on the order of the county auditor, after deducting and retaining such per centum on the amount so collected as is by law allowed for collecting the other taxes of said county.

SEC. 3. That section 17 of said act, which reads as follows:

Sec. 17 recited.

"SEC. 17. That for the purpose of carrying into effect the powers heretofore granted to said Common Council, to compel the owners of in-lots to pave or McAdamize the sidewalks in front of their respective lots, said council are hereby authorized to order that said owners do so pave or McAdamize said sidewalk within the period of sixty days after a copy of said ordinance shall have been personally served upon them by the marshal of said corporation, if said owners be residents of said county of Huntingdon, or if non-residents, by publication for three consecutive weeks in some weekly newspaper published in said county, or by written notice posted on the door of the court house in said town of Huntingdon for the period of thirty days, and upon failure of said owners to comply with said ordinance within the period of sixty days, said Common Council shall require the marshal of said corporation to sell out said work to the lowest bidder, after having given ten days' notice of said sale by posting up notices of the same in three of the most public [places] in said town of Huntingdon, and the amount for which said labor shall be sold out, together with the costs of the same, shall be returned by said marshal to the recorder of said corporation, who shall certify the same to the Auditor of said county, on or before the first Monday in June next ensuing, to be by him added to the taxes to be assessed on said lot for the current year, and collected in the same manner as other taxes are collected, and said amount shall



be a lien on said lot from the time the notice of said ordinance is served upon the owners as aforesaid;" be amended to read as follows:

SEC. 17. That for the purpose of carrying into effect the powers heretofore granted to the said Common Council, to compel the owners of lots to grade and pave or McAdamize the sidewalks or streets in front of their respective lots, said council are hereby authorized to order that said owners do so grade and pave or McAdamize said sidewalk or street within the period of thirty days after a copy of said ordinance shall have been personally served upon them by the marshal of said corporation, if said owners be residents of Huntingdon county, or if non-residents, by publication, for three consecutive weeks, in some newspaper published in said county, or by written notices posted up on the door of the Court House in Huntingdon, for the period of thirty days, and upon failure of said owners to comply with said ordinance within the period of sixty days, said Common Council shall require the marshal of said corporation to sell out said work to the lowest responsible bidder, after having given ten days' notice of said sale, by posting up notices of the same in three of the most public places in said town, and the amount for which said labor shall be sold out, together with the costs of the same, shall be returned by said marshal to the recorder of said corporation, who shall record the same in full in the records of said corporation; and when such grading and paving, or McAdamizing of said sidewalk or street are completed, the marshal shall report the same to the Common Council and the cost of such work shall be audited and paid out of the treasury of said corporation as other claims against the corporation are audited and paid; and the Common Council may immediately, by a suit in any court of competent jurisdiction, in the name of the town of Huntingdon, recover, against the owner of such lots, the amount for which the said grading and paving or McAdamizing said sidewalks or streets were sold as aforesaid, together with the cost of selling said work, and upon execution against the property of any defendant upon such judgment, the same shall be sold for cash without regard to the valuation and appraisement laws of this State. And from the date of the sale of said work by the marshal as aforesaid, the cost of grading and paving or McAdamizing said sidewalks or streets, and the damages aforesaid shall be a lien on such lot, and may be enforced in any court of competent jurisdiction, by an action in the name of said town.

Section 17 as amended.  
Common council to compel owners of lots to grade streets, &c.

Notice to be given to persons to comply with ordinance.

Marshal to sell out works.

Amount of cost of improvement to be recorded.

Cost of improvement to be audited and paid.

Cost of improvement may be collected by suit.

Emergency.

SEC. 4. Whereas, an emergency exists for the immediate taking effect of this act, it is, therefore, declared that the same shall be in force from and after its passage.

## CHAPTER XIII.

AN ACT to amend section "three" and "fifty-three" of an act entitled "An act to reduce the law incorporating the city of Madison, and the several acts amendatory thereto, into one act, and to amend the same," approved Feb. 14th, 1848, and declaring an emergency.

[APPROVED DECEMBER 20, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section 53 of an act entitled "an act to reduce the law incorporating the city of Madison, and the several acts amendatory thereto, into one act, and to amend the same," approved February 14, 1848, which reads as follows:

Sec. 53 recited.

"SEC. 53. All elections shall be by ballot, and [except to fill vacancies] on the first Monday in April, annually, and at each place or places as the Common Council shall designate; of which place or places at least fourteen days' notice shall be given, by advertisement in some newspaper printed and published in said city; and every free white male citizen of the United States, of the age of twenty-one years, who shall have resided within the limits of the city one year next preceding said election, and shall have paid all taxes of every description legally due from him to said city, shall be entitled to vote, [except as hereinafter provided] and the receipt of the collector of the revenue of said city for all taxes due as aforesaid, or the collector's certificate that no taxes stands charged against him, shall be received by the judges of any election, as proof that all taxes against the party applying to vote, have been paid; and in the absence or for want of such receipt or certificate, the person applying to vote shall be required to swear or affirm positively that all such taxes have been fully paid by him, or that he has applied to the collector and was assured that there were no taxes charged against him on the duplicate; and for the purpose of enabling the officers of such election faithfully to discharge their duties, and to guard against imposition, the inspector of such election shall administer an oath or affirmation to any person who may offer to vote at such election, without exhibiting such receipt or certificate as aforesaid, and interrogate him under oath touching the payment of such taxes, and also touching all his other qualifications; and any person testifying falsely upon such examination, respecting his aforesaid qualifications, shall be guilty of perjury, and shall be liable to be indicted, convicted, and punished therefor, under the general laws of the State of Indiana for the punishment of the crime of perjury. The inspector of any election may also require any and every person of whose legal right to vote the judges of said election may have doubts, to answer under oath all questions touching his qualifications to vote at said election; and any person answering any such question falsely, shall be guilty of perjury, and upon conviction thereof, shall be punished under the laws of the State of Indiana for the crime of perjury; and still further to insure the foregoing objects, it is hereby made the duty of the person or persons having the custody or control of the proper tax assessment roll or rolls, to furnish the same, or full and perfect copies thereof, to the officers of such election, to be used by them during the taking of votes," be and the same is hereby amended to read as follows:

SEC. 53. All elections shall be by ballot, and [except to fill vacancies] on the first Monday in April, annually, and at such place in each ward as the Common Council shall designate; of which place at least fourteen days' notice shall be given, by advertisement in some newspaper printed and published in said city, and every free white male citizen of the United States, of the age of twenty-one years, who shall have resided within the limits of the city one year next preceding such election, and shall have paid all taxes of every description due from him to said city, shall be entitled to vote [except as hereinafter provided], and the receipt of the collector of the revenue of said city for all taxes due as aforesaid, or the collector's certificate that no tax stands charged against him, shall be received by the judges of any election, as proof that all taxes against the party applying to vote have been paid, and in the absence, or for the want of such receipt or certificate, the person applying to vote shall be required to swear or affirm, positively, that all such taxes have been fully paid by him, or that he has applied to the Collector, and was assured by him that there were no taxes charged against him on the duplicate; and for the purpose of enabling the officers of election faithfully to discharge their duties, and to guard against imposition, the inspector of such election shall administer an oath or affirmation to any person who may offer to vote at such election without exhibiting such receipt or certificate as aforesaid, and interrogate him under oath touching the payment of such taxes, and also touching all his other qualifications; and any person testifying falsely upon such examination respecting his aforesaid qualifications, shall be guilty of perjury, and shall be liable to be indicted, convicted and punished therefor under the general laws of the State of Indiana for the punishment of the crime of perjury. The inspector of any election may also require any and every person, of whose legal right to vote the judges of said election may have doubts, to answer, under oath, all questions touching his qualifications to vote at said election; and any person answering such question falsely, shall be guilty of perjury, and upon conviction thereof, shall be punished under the laws of the State of Indiana for the crime of perjury.

SEC. 2. That section 3 of said act, which reads as follows, to wit:

"SEC. 3. *And be it further enacted,* That all legislative power herein granted shall be vested in a Common Council, the members thereof shall be chosen by a plurality of the qualified voters of said city by general ticket; each elector shall be entitled to vote for as many candidates for members of the Common Council as there are wards in the city at the time of such election, or as all the wards of said city may be entitled

Section 53 as amended.

Elections to be by ballot, and to be held on the first Monday in April, annually, &c.

Notice of election.

Who entitled to vote at such elections.

Inspector may administer oath to party offering to vote.

Persons answering questions falsely, guilty of perjury.

Sec. 3 recited.

to at the time of such election, and no ticket containing the names of more candidates residing in any one ward than said ward is entitled to, shall be counted in, estimating the votes cast for Common Councilman for that ward. But as for candidates for any other office, or for Common Councilman for any other ward, such ticket shall be regarded as valid, and counted accordingly," be and the same is hereby amended to read as follows:

Section 3 as amended.  
Members of common council how chosen.

Common councilman must be resident of ward which he is chosen to represent.

Emergency.

SEC. 3. That all legislative power herein granted, shall be vested in a Common Council, one member whereof shall be chosen respectively from each ward by plurality of the qualified voters of the ward, and each ward shall be entitled to one representative in said Common Council, which Common Councilman shall reside in the ward which he is chosen to represent.

SEC. 4. Whereas an emergency exists for the immediate taking effect of this act, it is therefore declared to be in force from and after its passage.

## CHAPTER XIV.

AN ACT empowering incorporated cities and incorporated towns to plant and maintain shade trees along the streets, alleys, public squares and commons thereof, and to provide for the protection of the same at the expense of the adjoining property holders.

[APPROVED DECEMBER 20, 1865.]

Incorporated cities and towns may compel owners of lots to plant and maintain shade trees.

What kind of shade trees to be planted.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the incorporated cities and incorporated towns of this State are hereby invested with full power to compel the owners of lots and parts of lots bordering on any street, alley, public square, or common of said cities and towns, to plant and maintain shade trees along said streets, alleys, public square or common, under the same regulations, and in the same manner, in which the grading and paving of streets and sidewalks are now enforced. That when such owners shall petition the Common Council for the planting and maintaining of any particular kind of tree, said council shall, in making their order for the same, designate the kind of tree named in said petition; but when the kind of tree shall not be designated in said petition, or where shade trees are required to be planted and maintained on order of the council, without petition, then the council, in making the proper order, shall designate therein the kind of tree to be

planted and maintained. The Common Council are hereby invested with full power to pass by-laws and ordinances for the protection and preservation of trees established in pursuance of this act, and to designate the distances at which shade trees shall be established, and the kind of boxing or other protection for the same, the costs of which shall be assessed and collected in the same manner in which the costs of establishing and maintaining shade trees is assessed and collected.

Common council invested with power to pass by-laws regulating planting and protecting shade trees.

SEC. 2. Whereas, an emergency exists, it is hereby declared that this act shall be in force from and after its passage.

Emergency declared.

## CHAPTER XV.

AN ACT, regulating Foreign Insurance Companies, doing Business in this State; Prescribing the duties of the Agents thereof, and of the Auditor of State in connection therewith, and providing Penalties for the Violation of the Provisions of this Act.

[APPROVED DECEMBER 21, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*; That it shall not be lawful for any agent or agents of any Insurance Company incorporated by any other State than the State of Indiana, directly or indirectly, to take risks or transact any business of insurance in this State, without first producing a certificate of authority from the Auditor of State; and before obtaining such certificate, such agent, or agents, shall furnish the said Auditor with a statement, under oath, of the President or Secretary of the Company for which he or they may act, which statement shall show:

Agent to obtain certificate from auditor of state.

Agent must furnish auditor with statement showing.

*First*, The name and locality of the Company.

*Second*, The amount of its capital stock.

*Third*, The amount of its capital stock paid up.

*Fourth*, The assets of the Company, including, 1st, The amount of cash on hand, and in the hands of agents or other persons; 2d, The real estate unincumbered; 3d The bonds owned by the company, and how they are secured, with the rate of interest thereon; 4th, Debts to the company secured by mortgage; 5th Debts otherwise secured; 6th, Debts for premiums; 7th, All other securities.

*Fifth*, The amount of liabilities due, or not due, to banks or other creditors, by the company.

*Sixth*, Losses adjusted and due.

*Seventh*, Losses adjusted and not due.

*Eighth*, Losses unadjusted.

*Ninth*, Losses in suspense, waiting for further proof.

*Tenth*, All other claims against the company.

*Eleventh*, The greatest amount insured in any one risk.

*Twelfth*, The greatest amount allowed by the rules of the company to be insured in any one city, town or village.

*Thirteenth*, The greatest amount allowed to be insured in any one block.

*Fourteenth*, The act of incorporation of such company; which statement shall be filed in the office of said Auditor, together with a written instrument, under the seal of the Company, signed by the President and Secretary, authorizing such agent to acknowledge service of process, for and in behalf of such company; consenting that service of process upon such agent shall be taken and held to be as valid as if served upon the company according to the laws of this State, or any other State, and waiving all claim of error by reason of such service. And no insurance company, or agent, or agents of any insurance company, incorporated by any other State, shall transact any business of insurance in this State, unless such company is possessed of at least one hundred thousand dollars of actual capital, invested in the stocks, or bonds, of some one or more of the States of this Union, or of the United States, at the current market value thereof at the date of such statement, or in bonds or mortgages of real estate worth double the amount for which the same is mortgaged, and free from any prior incumbrance; and upon the filing of the aforesaid statement and instrument with the Auditor of State, and furnishing him with satisfactory evidence of such investment, as aforesaid, it shall be the duty of said Auditor to issue a certificate thereof, with authority to transact the business of insurance, to the agent or agents applying for the same; and said statement, instrument and evidence shall be renewed semi-annually, in the months of January and July of each year; and the Auditor of State, on being satisfied that the capital, securities and investment remain secure, as at first, shall furnish a renewal of certificate as aforesaid, and the agent or agents obtaining such certificates, shall file the same, together with a certified copy of the statement on which it was obtained, in the office of the Clerk of the Circuit Court of the county in which such agency is established, both of which documents shall be carefully preserved for public inspection, by said Clerk. *Provided*, That the provisions of this section shall not be construed

to extend to, include or embrace Horse Insurance and Detective companies, insuring against thieves.

SEC. 2. It shall be unlawful for any agent or agents, of any Insurance Company, incorporated by any Government foreign to the United States, to transact any business of insurance in this State, without procuring a certificate of authority from the Auditor of State; such agent or agents having first filed, in the office of said Auditor, a statement, under the oath of the President, Secretary, or Secretary resident in the United States, of such Company, setting forth the charter, or act of incorporation of the Company, and the matters required to be specified by the first section of this act, and furnished evidence to the satisfaction of the Auditor of State, that such Company has invested in the stocks or bonds of some one or more of the States of this Union, or of the United States, the sum of one hundred thousand dollars, estimated at the current market value thereof at the date of such statement, and that such stocks or bonds are held within the United States, by a citizen or citizens thereof, as the agent or agents, trustee or trustees of such Company, and are not pledged or otherwise encumbered, but are held and remain for the protection and benefit of the policy holders of such Company; and the said agent or agents of such Company, filing said statement, and furnishing evidences of investment, as aforesaid, shall be entitled to a certificate of authority, in like manner as is provided for in the first section of this act.

Unlawful for Agents to transact business without procuring certificate.

When agent entitled to certificate of authority.

SEC. 3. The Auditor of State shall be entitled to five dollars in each case, for the examination of the statement, and investigation of the evidences of investment, and two dollars for each certificate of authority, issued under the provisions of this act, to be paid by the agent or agents applying for the same.

Fees of Auditor of State.

SEC. 4. Whenever any loss shall occur, of any property insured by any Company authorized to take risks under this act, it shall be the duty of the agent by whom the insurance was made, to retain in his possession all moneys belonging to such Company, which may then be or may thereafter come into his possession, until such loss is adjusted and paid. *Provided*, that if suit shall be commenced by the party insured, against such Company, the agent may deposit in Court double the amount mentioned in the policy, to abide the event of the suit; or if the party insured shall not commence suit within ninety days after the agent shall have given written notice to such party that the loss will not be paid, the agent may thereafter [pay over] to persons entitled, the moneys of said Company; and if any person insured by such Company, meeting with a loss,

Agent, in case of loss, to retain all money in his possession until loss is adjusted.

Provided.

shall notify any other agent of such Company thereof, it shall be the duty of such agent to retain all moneys belonging to such Company, which may then be, or may thereafter come into his possession, as hereinbefore required of the agent with whom the insurance was effected.

Copies of all papers certified by Auditor of State admissible as evidence.

SEC. 5. The copies of all papers required by this act to be deposited in the office of the Auditor of State, certified under the hand of such Auditor to be true and correct copies of such papers, shall be received as evidence in all courts and places, in the same manner, and have the same force and effect, as the originals would have if produced.

Certain conditions not to be inserted by insurance companies in policy.

SEC. 6. No such Insurance Company shall insert any condition, in any policy hereafter issued, requiring the insured to give notice forthwith, or within the period of time less than five days, of the loss of the insured property; nor shall any condition be inserted in such policy, requiring the insured to procure the certificate of the nearest Justice of the Peace, Mayor, Judge, Clergyman, or other official, or person, of such loss, or the amount of such loss; and any provision or condition contrary to the provisions of this section, or any condition in said policy, inserted to avoid the provisions of this section, shall be void, and no condition or agreement, not to sue for a period less than three years, shall be valid.

Punishment for violation of provisions of this act.

SEC. 7. Any person or persons violating the provisions of this act, shall, upon conviction thereof, in any Court of competent jurisdiction, be fined, in any sum not exceeding one thousand dollars, or imprisonment in the county jail not more than thirty days, or both, at the discretion of the Court. Violations of the provisions of this act may be prosecuted by information filed by the Prosecuting Attorney of the proper county, or by indictment of the Grand Jury.

Emergency declared.

SEC. 8. It is declared that an emergency exists for the immediate taking effect of this act, therefore the same shall be in force from and after its passage.



## CHAPTER XVI.

AN ACT to amend the first and fourth sections of an act entitled "An act to reorganize the Evansville Insurance Companies, chartered under the several acts of February 8, 1836, and January, 21, 1850."

[APPROVED DECEMBER 20, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the first section of an act entitled "An act to re-organize the Evansville Insurance Companies, chartered under the several [acts] of February 8, 1836, and January 21, 1850," which reads as follows to-wit.:

"Section 1. *Be it enacted by the General Assembly of the State of Indiana*, That said companies are hereby re-organized, under the several acts of incorporation, so as to form one company, under the name and style of 'The Evansville Insurance Company,' with all the powers, rights, privileges, and franchises appertaining to each, except as herein otherwise provided, and with a capital stock of two hundred and fifty thousand (250,000) dollars;" be amended to read as follows, to-wit.:

Section 1 re-  
ci-ed.

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That said companies are hereby re-organized, under the several acts of incorporation, so as to form one company, under the name and style of "The Evansville Insurance Company," with all the powers, rights, and privileges appertaining to each, except as herein otherwise provided, and with charter perpetual, and with an increase of capital stock to one million dollars, provided, that no increase over the present paid up capital of two hundred and fifty thousand dollars shall be made, except upon the written request and consent of the stockholders owning and representing three-fourths of said paid up capital. And upon such written request and consent for an increase of capital being filed with the directors of said company, they shall provide, either by by-laws or otherwise, in what manner such increase shall be made, how and when the same shall be paid or secured, and on what condition stock subscribed and not paid for, shall be forfeited.

Evansville Insu-  
rance Compa-  
ny's powers.

Charter.

Capital stock,  
&c.

SEC. 2. That section four of said act, which reads as follows, to-wit.:

"Section 4. That the real and personal estate, business property, funds, and prudential concerns of 'The Evansville Insurance Company,' as re-organized under the provisions of this act, and the administration of its affairs, shall be under the management, direction and control of a board of nine directors, who shall be stockholders of said company, and

Sec. 4 recited.

citizens of the State of Indiana; and after the election of the first board, as provided for by the second section of this act, said directors shall be elected annually, on the first Monday in September, at such time of day and place, in the city of Evansville, as the directors for the time being shall direct; the directors elected at any meeting after the first, shall hold their offices until the next annual election, and until their successors are elected and qualified;" be amended so as to read as follows, to-wit.:

Real and personal estate, business, &c., of company, how controlled, &c.

SEC. 4. That the real and personal estate, business, property, funds, and prudential concerns of the "Evansville Insurance Company," as re-organized under the provisions of this act, and the administration of its affairs, shall be under the management, direction, and control of a board of nine directors, who shall be stockholders of said company, and citizens of the State of Indiana; and after the election of the first board, as provided for by the second section of this act, said directors shall be elected annually, on the second Tuesday in January, at such time and place, in the city of Evansville, as the directors for the time being shall direct; the directors elected, at any meeting after the first, shall hold their offices until the next annual election, and until their successors are elected and qualified.

Directors, when elected.

Emergency.

SEC. 3. It is hereby declared that an emergency exists for the immediate taking effect of this act, the same shall, therefore, take effect from and after its passage.

## CHAPTER XVII.

AN ACT to amend an act to incorporate the Indianapolis Insurance Company, approved Feb. 8, 1836.

[APPROVED, DECEMBER 20, 1865.]

SEC. 1st. *Be it enacted by the General Assembly of the State of Indiana*, That section one of the above recited act, which reads as follows, to wit:

Sec. 1 recited.

"SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That there shall be and hereby is established, in the town of Indianapolis, an Insurance Company, with a capital stock of two hundred thousand dollars, to be divided into shares of fifty dollars each, and subscribed and paid for by individuals, companies or corporations, in manner hereinafter specified; which stockholders and subscribers and their successors, shall be and are hereby created a body politic and corporate, with perpetual succession, by the name and style of 'The Indianapolis Insurance Company,' for the period of fifty years, from and after the passage of this law; and by that name, shall be competent to contract and be contracted with, to sue and to be sued, plead and be impleaded, answer and be answered unto, defend and be defended in all courts and places, and in all matters,

whatsoever, with full power and authority to acquire, hold, possess, use, occupy and enjoy, and the same to sell, convey and dispose of, all such real estate as shall be necessary and convenient for the transaction of its business, or which may be conveyed to said company for the security, or in payment of, any debt, which may become due and owing to the same, or in satisfaction of any judgment of any court of law, or any order or decree of any court of equity, in their favor; and may have and use a common seal, and the same alter, change, break or renew at pleasure; and may also make, ordain, establish and put in execution, such by-laws, ordinances, rules and regulations as shall be necessary and proper for the good government of said company, and the prudent and efficient management of its affairs. *Provided*, that no by-laws, ordinances, rules or regulations of said company shall in any wise be contrary to the Constitution and laws of this State or of the United States. *And provided, also*, that said company shall not own or hold at any time, a greater amount of real estate, than shall be of the value of two hundred thousand dollars," be and the same is hereby amended so as to read as follows, to wit:

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana*, That there shall be and hereby is established in the city of Indianapolis, an Insurance Company, with a capital stock of two hundred thousand dollars, which may be increased from time to time to such additional sum or sums as may be determined upon by a vote of a majority in value of the stockholders, at any regular or called meeting of said stockholders, to be divided into shares of fifty dollars each, and subscribed and paid for by individuals, companies or corporations in manner hereinafter specified, which stockholders and subscribers and their successors shall be and hereby are created a body politic and corporate with perpetual succession by the name and style of "The Indianapolis Insurance Company," and by that name shall be competent to contract and be contracted with, to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in all courts and places, and in all matters whatsoever, with full power and authority to acquire, hold, possess, use, occupy and enjoy, and the same to sell, convey and dispose of, all such real estate as shall be necessary and convenient for the transaction of its business, or which may be conveyed to said company for the security, or in payment of any debt, which may become due, and owing to the same, or in satisfaction of any judgment of any court of law, or any order or decree of any court of equity, in their favor; and may have and use a common seal, and the same alter, change, break or renew at pleasure; and may also make, ordain, establish and put in execution, such by-laws, ordinances, rules and regulations as shall be necessary and proper for the good government of said Company, and the prudent and efficient management of its affairs. *Provided*, that no by-laws, ordinances, rules or regulations of said company, shall in any wise be contrary to the

Section 1 as amended.

Indianapolis Insurance Company established—its capital stock, powers, &c.

Proviso.

Constitution and laws of this State or of the United States *And provided, also,* that said company shall not own or hold at any one time, a greater amount of real estate, than shall be of the value of two hundred thousand dollars.

Emergency declared.

SEC. 2. It is declared that an emergency exists for the immediate taking effect of this act, and therefore the same shall take effect and be in force from and after its passage.

## CHAPTER XVIII.

AN ACT to amend sections thirty-nine, forty-two, forty-five, and fifty-four of an act entitled "An act for the incorporation of Insurance Companies, defining their powers, and prescribing their powers," approved June 17, 1852.

[APPROVED DECEMBER 20, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That section thirty-nine of said act, which reads as follows, to-wit:

Sec. 3) recited.

["Section 39.] Every such corporation shall annually elect a Secretary, and not less than five directors, and the directors, in like manner, shall elect a President and Vice-president, as heretofore provided in the case of other Insurance Companies, and shall also elect a Treasurer, who shall give bond in such sum as such directors shall order. No one member shall be allowed more than five votes at any election, but absent members may vote by proxy, authorized in writing;" be and the same is hereby amended so as to read as follows, to-wit..

How amended.  
Company shall  
elect officers.

Member allowed  
five votes.

Members may  
vote by proxy.

[SEC. 39.] Every such corporation shall annually elect a Secretary, and not less than five directors, and the directors, in like manner, shall elect a President and Vice-President, as heretofore provided in the case of other Insurance Companies, and shall also elect a Treasurer, who shall give bond in such sum as such directors shall order. No one member shall be allowed more than five votes at any election, but absent members may vote by proxy, authorized in writing, and that the officers of the company may have time to examine the list of policy holders, and see who are members, and the number of votes each proxy is entitled to. Such proxy shall set forth the number of policy, and the amount insured by the same, and such policy, [proxy,] or a duplicate of the same, shall be placed on file with the Secretary of the company, at least ten days previous to the day of any election.

SEC. 2. That section [forty-two] of said act, which reads as follows, to-wit.:

"Section 42. When the sum of one hundred thousand dollars shall be subscribed, to be insured by any such company, and proof of the same is furnished to the Auditor of State, the books containing such subscriptions, verified by the affidavit of the Secretary, and examined and approved by him, as evidence by his certificate; such company may issue, for a term not exceeding seven years, upon any buildings and the contents thereof, and such only within this State, any amount within three-fourths of the value thereof;" be and the same is hereby amended to read as follows, to-wit.:

Sec. 42 recited.

[SEC. 42.] When applications for insurance, in which there shall be taken not less than fifty thousand dollars, in *bona fide* premium notes, by any such company, and proof of the same is furnished to the Auditor of State, the books containing the same, verified by the secretary of the company, and examined and approved by him, as evidence by his certificate, such company may issue policies of insurance and renewals on the same, for a term not exceeding seven years, against loss or damage by fire, lightning, or tornado, upon any dwelling house or other buildings, merchandise, or other property, within the United States.

How amended. Bona fide premium notes to be taken and proof of same furnished to Auditor of State before issuing policies.

SEC. 3. And that section forty-five of said act, which reads as follows, to-wit:

["SEC. 45.] Every person who shall become a member of such company, shall, before he receives his policy, deposit his promissory note, as a premium note for such sum as may be agreed upon, on which note he shall pay not less than five per cent. immediately upon its delivery, and the balance of such note shall be payable, in part or in whole, when, on any assessment made, the directors shall require the same;" be and the same is hereby amended so as to read as follows, to-wit:

Sec. 45 recited.

[SEC. 45.] Every person who shall become a member of such company shall, before receiving a policy, deposit his, her, or their promissory note, as a premium note, and shall pay such further consideration, on or before receiving the policy, as may be agreed upon, and such note shall be payable, in whole or in part, when, on any assessment, the directors may require the same. But should any person insuring in such company so desire, they can pay a definite consideration in lieu of giving a premium note, and in this case, the person so insured shall not be deemed a member, nor entitled to participate in the accumulations of the Company, and such Company may, if it so desire, take a promissory note for the cash premium, for such length of time, on any policy, as may be agreed upon, and if such promissory note shall remain unpaid, after it becomes due, the Company shall not be held responsible.

How amended. Person becoming a member to deposit premium note. May pay auditor consideration instead of premium note—company not held responsible when.

for any loss or damage that may take place under any policy for which such note was given."

SEC. 4. And that section fifty-four, of said act, which reads as follows, to wit:

Sec. 54 recited.

["SEC. 54.] Every member of such Corporation shall, at the expiration of his policy, have the right to a share of the funds then remaining, after all expenses and losses then incurred have been deducted, in proportion to the sum by him actually paid, on account of such policy;" be, and the same is hereby, amended to read as follows, to wit:

How amended.  
When cash accumulations to be added to the capital.

[SEC. 54.] The cash accumulations of such Company, over and above the losses and expenses, shall be added to its capital and held by the Company for the protection of its policy holders, until such cash accumulation shall reach the sum of one hundred thousand dollars; and after this sum shall have been accumulated, the Board of Directors may, for any additional cash accumulations thereafter, declare a dividend once in five years, *pro rata*, in proportion to the amount paid by the then existing policy holders, and pay the sum to them on the renewals for five or seven years of their policies, then in force in said Company.

When dividend may be declared.

Emergency.

[SEC. 5] That so much of the act of which this is an amendment as is inconsistent with the act, be, and the same is hereby, repealed, and as an emergency now exists, this act shall take effect and be in force from and after its passage and publication.

## CHAPTER XIX.

AN ACT supplemental to an act entitled "An act for the incorporation of Insurance Companies, defining their powers, and prescribing their duties," approved June 17, 1852.

[APPROVED DECEMBER 20, 1865.]

Life and Health Insurance Company, how organized, &c.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That Mutual Insurance Companies may be organized for the insurance of the lives or health of persons, or against accident to persons, upon the same conditions and subject to the same duties and liabilities now regulating Mutual Fire Insurance Companies, so far as the same may be applicable. *Provided*, That any such company may, at the time of issuing a policy receive the full amount of premiums agreed upon, in which case the

assured shall not be liable to any assessment on account of losses, nor entitled to participate in the profits accruing to such companies. *And provided further*, That policies issued may be for the life of the person, or persons applying for insurance, or for any determinate period, and upon such amount or value as may be agreed upon by the parties and those Life Insurance Companies organized under said law shall be perpetual.

SEC. 2. That no company organized under and by virtue of this act, shall insure property of any kind or take any fire risks.

Such company not to insure property or take fire risks.

SEC. 3. There being no law in this State authorizing the incorporation of the companies provided for by this act, it is hereby declared that an emergency exists for its immediate taking effect and that the same shall be in force from and after its passage.

Emergency declared.

## CHAPTER XX.

AN ACT to declare forfeited the right of way of certain Railroad Companies to branch roads, no part of which has been completed, and upon which no work has been done for ten years; and declaring that the right of way aforesaid shall revert to the land owners along the route thereof.

[APPROVED DECEMBER 20, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That whenever any railroad company, incorporated, organized and existing under any act or charters granted by the General Assembly of the State of Indiana prior to the taking effect of the present Constitution, which shall have been authorized by such charter or any amendments thereto, to construct any branch road to their main route; and shall have procured the right of way for such branch road or any part thereof, and proceeded to cut out, and grade the same or any part thereof, but shall have ceased work upon the same for a period of ten consecutive years prior to the first day of the present session of the General Assembly, without having completed any part thereof such right of way, to such branch route, and to every part thereof, shall be, and the same is hereby declared to be forever forfeited and lost by said company, as well as all work done, and labor and material furnished by said company, towards the grading

When right of way of branch railroads and materials furnished forfeited..

of the same; and the said right of way, and each and every part thereof shall reinvest in the owners of the soil over which the said branch road may have been laid out, in the same manner and relation as before it was granted to said company.

## CHAPTER XXI.

AN ACT to authorize Railroad Companies to occupy and use for railroad purposes the property of Canal Companies, with their consent, and to secure them in such occupation and use, and for the protection of the hydraulic powers of each Canal, and to authorize the lessees of the water privileges in said Canal to organize a company or companies for the maintenance thereof, in case of the failure of said Canal Company to maintain the same.

[APPROVED NOVEMBER 16, 1865.]

Railroad company may occupy and use property of canal company, &c.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That it shall be lawful for any Railroad Company heretofore or hereafter organized under any general or special law of this State, with the consent of any canal company of the State, to occupy and use the real and personal property of such canal company and its appurtenances, and any part thereof, its right of way and privileges, or any part thereof, for railroad purposes, on such terms and conditions, and for such compensation, as shall be mutually agreed on between such railroad and canal companies; and it shall be lawful for such canal company, for the purpose of consummating such arrangement, to grant, lease, or convey to such railroad company, said real and personal property, and appurtenances, rights of way and privileges, to be occupied and used for railroad purposes: *Provided however*, That no grant, lease, or conveyance shall be made by any canal company that shall authorize or suffer its hydraulic power now in use to be impaired: *And provided further*, That this act shall not apply to any lands now in the hands of trustees, and which has been taken or in any way held as security for the public debt: *And provided further*, That nothing in this act shall be held or construed to make or render the State liable for any such canal company: *And provided further*, That any railroad company with which a canal company may contract as aforesaid, shall, for the protection of the hydraulic power of the canal, maintain the embankments

Canal company may grant, lease and convey property, &c., to railroad company.

Provided.

State not to be liable for canal company.

Railroad company to maintain embankments for hydraulic purposes.



thereof, so far as such railroad company occupies such embankments: *And provided further*, That no such grant, lease, or conveyance shall be made by any such canal company of such feeder dams and feeders, and right of way for water to run in such canal for hydraulic purposes as supply present lessees of water power; nor of the real estate now leased to lessees of water power, but all of which shall be retained and controlled by the canal Board of Directors; *And provided further*, That no such grant, lease, or conveyance shall be made by any canal company, by which the hydraulic power now in use shall be impaired, nor in any way impair the contracts now existing between the lessees of water power and such canal company.

Feeder dams and right of way not to be leased or conveyed when already leased for hydraulic purposes.

SEC. 2. That if any canal company shall neglect or refuse to keep up the present hydraulic power thereof, the lessees of the same, or any portion of them, may organize a company or companies for the maintenance thereof, and for this purpose shall be invested with all the rights of the original company to control such canal feeders and dams, or parts thereof, collect the water rents, make repairs, lease the said water power and renew the present leases thereof; *Provided*, the said company or companies in no way interfere with the rights of way herein authorized, as the property of such railroads.

Canal company failing or refusing to keep up hydraulic power lessees may organize companies to maintain the same, &c.

SEC. 3. An emergency is hereby declared to exist for the immediate taking effect of this act, and the same shall be in force from and after its passage.

Emergency.

## CHAPTER XXII.

AN ACT to empower railroads to build branches to neighboring coal mines.

[APPROVED DECEMBER 19, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That any railroad in this State is hereby empowered to build and operate a branch railroad from any point on its main line, to any adjacent or neighboring coal mine, not, however, exceeding in distance ten miles from the nearest point on said main line.

Railroads may construct branch roads to neighboring coal mines not exceeding ten miles in length.

SEC. 2. That the powers of the charter of any railroad company constructing such branch in relation to the entering upon and taking possession of and acquiring title to any ground and materials necessary in the construction

Powers of charter to extend to construction of branch road as to entering upon ground, &c.

and maintenance of such road, shall be and the same are hereby extended to the construction and maintenance of any such branch road.

**SEC. 3.** An emergency existing for the immediate taking effect of this act. It is hereby declared to be in full force from and after its passage.

## CHAPTER XXIII.

AN ACT to enable Railroads to alter their lines in certain cases.

[APPROVED DECEMBER 20, 1865.]

**SEC. 1.** *Be it enacted by the General Assembly of the State of Indiana,* That if, at any time after the location of the line of any Railroad, chartered by this State, and the filing of the map thereof, it shall appear to the directors of such Company that the line thereof is unnecessarily dangerous, inconvenient or expensive to operate, by reason of unavoidable causes, grades or other serious errors in location, such directors may make local alterations of the line, and cause a new map to be filed in the office where the map showing the first location is filed, and may thereupon take possession of the lands embraced in such new location necessary for the construction and maintenance of such road, on such altered line, either by agreement with the owner, or by such proceedings as are authorized by the charter of such Company, and may use such new line in the place of the one for which it is substituted. But nothing in this act shall be so construed as to confer upon such Railroad Company any power to locate its road on any route which would not have been authorized by its charter. and nothing in this act contained shall authorize such Company to make a location of its track within any city without the consent of the Common Council of such city, nor to change its road so as to avoid any point named in its charter. And any change so made by any railroad Company shall subject them to the payment of all damages that may be sustained by any parties from such change, to be recovered the same as other damages are now recovered. *Provided,* that if any Railroad Company propose to change any part of their track for a distance more than one mile, or seek to re-locate their road, shall, previous to any such change or re-location, pay to the owner or owners of any

When alterations may be made in line of railroads.

New maps to be filed in office of Secretary of State, showing, &c.

Road not to be located on route not authorized by its charter, nor track to be laid within city without consent of council, &c.

Where change is made for a distance of more than one mile, &c., damages to be paid, &c.

real estate lying along or near the route or line of said road, from which said track is proposed to be taken, all damages that may accrue to such owner or owners on account of such removal; said damages shall be assessed in the same manner as lands taken for railroad purposes in pursuance to the statute now in force in this State; and said damages shall be assessed and paid to the owner or owners of said lands, or paid into the County treasury to the credit of the owner or owners of said lands previous to the change or re-location of said Railroad.

SEC. 2. An emergency existing for the immediate taking effect of this act, it is hereby declared to be in force from and after its passage. Emergency.

## CHAPTER XXIV.

AN ACT to provide by law to prevent conductors running railroad trains from obstructing any public highway or street, to the hinderance of travel, and prescribing penalties therefor.

[APPROVED DECEMBER 20, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That it shall be unlawful for any conductor running a railroad train to allow the same to remain standing across any public highway or street, to the hinderance of travel, for a longer time than ten minutes, and in violation thereof, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be fined in any sum not less than ten nor more than fifty dollars, and shall be held in custody until the same is paid or replevied: *And be it further enacted*, it shall be the duty of any justice of the peace, or mayor of any incorporated town or city, upon affidavit by any person, to commence prosecution without delay: *And be it further enacted*, they shall be entitled to the same fees as in all similar cases. Unlawful for conductor to allow railroad train to remain across highway or street longer than ten minutes at a time.

Fine for, &c.

Justice to commence suit upon affidavit.

Fees of Justice.

[SEC. 2.] Inasmuch as there is now no law providing for such offences, it is declared that an emergency exists for the immediate taking effect of this act, therefore, the same shall be in force from and after its passage. Emergency.

## CHAPTER XXV.

AN ACT to amend section thirty-eight of an act entitled "An act to provide for the incorporation of railroad companies," approved May 11, 1852.

[APPROVED DECEMBER 20, 1865.]

Preamble.

WHEREAS, It was the intention of the General Assembly, by the section hereinafter recited, to afford protection to laborers on railroads, now, in order to make such intention plain :

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section 38 of an act entitled "An act to provide for the incorporation of railroad companies," approved May 11, 1852, which reads as follows, to-wit.:

Sec. 38 recited.

"Section 38. The stockholders shall be individually liable, for all labor done in the construction of said road, that shall remain unpaid after the assets of the corporation shall have been exhausted"; be and the same is hereby amended to read as follows, to-wit.:

Section 38 as amended.  
Stockholders individually liable to laborers and their executors et al., for labor done.

SEC. 38. The stockholders shall be individually liable to laborers, their executors, administrators, and assigns for all labor done in the construction of said road, that shall remain unpaid, after the assets of the corporation shall have been exhausted.

## CHAPTER XXVI.

AN ACT supplemental to an act entitled "An act to authorize, regulate and confirm the sale of railroads; to enable purchasers of the same to form corporations, and to exercise corporate powers, and to define their rights, powers and privileges; to enable such corporations to purchase and construct connecting and branch roads, and to operate and maintain the same," approved March 3, 1865, and for the purpose of making the same more definite and certain.

[APPROVED DECEMBER 20, 1865.]

Title of act approved March 3, 1865, recited.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the act entitled "An act to authorize, regulate and confirm the sale of railroads; to

enable purchasers of the same to form corporations, and to exercise corporate powers, and to define their rights, powers and privileges; to enable such corporations to purchase and construct connecting and branch roads, and to operate and maintain the same," approved March 3, 1865, be held, and the same is hereby declared to apply to and embrace any and all sales or purchases of railroads, their franchises, rights and privileges, under judicial decrees, or judgments of any of the Courts of the State of Indiana, or of the United States, at any time, whether said sale under such decrees or judgments, may have occurred before or after the passage of said act.

Said act to apply to and embrace any and all sales or purchases of railroads, &c.

SEC. 2. That whereas an emergency exists for the immediate taking effect of this act, the same is declared to be in force from and after its passage. Emergency.

## CHAPTER XXVII.

AN ACT to secure a just valuation and taxation of all railroad property within this State, to legalize the valuation, assessment, adjustment and payment of taxes, for such property, made subsequent to the year 1859.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That all Railroad Companies having the whole, or any portion of their lines of railroad, within this State, shall on or before the first Monday in April, eighteen hundred and sixty-nine, and on the first Mondays of April thereafter in such years in which there shall be a general appraisement of the real property of the State, furnish to the appraiser of each county through which their respective roads may run, a written statement of the length of the line of such roads within his county, and also a statement of all the machine shops, depots, depot-grounds, rolling machinery and other property of such company used by it in doing the business thereof, within this State, and of the gross earnings, and also of the current net earnings of such road over and above the necessary expenses in transacting its business, and for repairs during the five years immediately preceding such statement, which shall be verified by the oath or affirmation of the proper officer of such Company making such statement.

Railroad companies to furnish appraisers with written statement of length of line, &c., verified by oath or affirmation.

Appraisers shall appraise railroads and property belonging thereto.

**SEC. 2.** The Appraisers of the counties through which such road may run, if through more than one county, shall within thirty days, after such first Monday of April, meet at such time and place on the line of such road as shall be designated by the Auditor of State, or if he fails to designate and notify said Appraisers of such time and place of meeting within twenty days after such first Monday in April, then at such time and place as a majority of said Appraisers shall designate, and said Appraisers, or a majority of them, shall then ascertain and appraise the value of said road per mile, by first making a valuation of the said railroad, and all its fixed property, situate within this State, including all its depots, depot-grounds, machine shops, and other buildings erected thereon, and such proportion of the rolling stock and moveable property used in operating the whole road, if part thereof is without this State, as the length of the railway in this State bears to the entire length thereof, within and without this State, and in estimating the entire value of such railroad and its equipments, the Appraisers shall take into consideration its location for business, the competition of other transportation routes, by rail or by water, its earnings, expenses and repairs, the then present condition of its road-way, and equipments, and its value as an investment without reference to its cost or indebtedness: *Provided*, That all lands owned or held in trust by any Railroad Company, and not actually needed or used in operating the road, shall be assessed for taxation, and the taxes collected in the counties where they may be situated in the same manner as taxes are assessed and collected on the lands of natural persons, and the County Auditor shall apportion such valuation of such railroad, for county and township purposes according to the length of such road, through such county or township.

Proviso.

County Auditor shall apportion valuation of railroad.

Appraisers shall apportion by the mile value of railroads, &c.

**SEC. 3.** The Appraisers, after making their valuation as aforesaid, shall then apportion by the mile, the whole value of the railroads and its equipments thus ascertained, and estimated to the counties, respectively in proportion to the length of road in each county through which it runs, and such value by the mile shall be the basis for the assessment of all taxes levied by State, county and township authority through which such road passes according to the rate of taxation for other property.

Appraisers' duties in case railroad company refuses to furnish him proper statement.

**SEC. 4.** If any such Railroad Company shall fail or refuse to furnish to the Appraiser of the proper county, the statement provided for in the first section of this act, such Appraisers shall make out such statement from the best information they can obtain, and to enable them so to do they are hereby authorized to examine on oath or affir-

mation, any and all persons whom they may suppose to have knowledge of any facts necessary to be ascertained in making such statement, and shall add fifty per cent. to such assessment as a penalty for failing or refusing to comply with the provisions of this act.

SEC. 5. If any Railroad Company shall be dissatisfied with the valuation so made by said County Appraisers, such Company may, provided they have complied with the provisions of the first sections of this act, appeal therefrom to the State Board of Equalization at its first session thereafter, by serving a written or printed notice, sealed with its corporate seal, on the Auditor of State to that effect, not less than ten days before the meeting of such Board, and said Board of Equalization is hereby empowered to examine the alledged grievances and grant such relief as may be deemed just.

Railroad company may appeal when dissatisfied with valuation made.

SEC. 6. In all cases where the taxes of any such Railroad companies for any year previous to the year 1859, have at any time, been fully adjusted and paid to the State, counties, townships, towns and cities through which such roads run, upon the basis of the valuation of the property of such companies, according to the provisions of the act entitled "An act to amend the sixth, eighth, ninth and fourteenth sections of an act entitled, an act to provide for the appraisement of real estate and prescribing the duties of officers in relation thereto," approved December 21, 1858, also, "defining the duties of appraisers and deputy appraisers and the Auditor of State," approved March 4, 1859, and in all cases where the taxes for any such railroad companies for any year since 1858, have been in like manner adjusted and paid to the State, counties, townships, towns and cities upon the basis of the valuation of the property of such companies made by the appraisers, or a majority of them, of the counties through which such roads run, or upon the basis of the valuation of such roads made by the State Board of Equalization, which equalization and assessments are hereby declared valid such payments shall be deemed valid and effectual to discharge such railroad companies from the payment of any other or further taxes for any such years, and shall also discharge any county from any and all liability to the State on account of such taxes.

Taxes paid for any year previous to 1859, deemed valid and effectual.

SEC. 7. The cities and incorporated towns through or into which a railroad may pass, may assess any railroad building, fixtures and machinery connected therewith, within the city or town limits, on the same basis and in the same manner that the like property of natural persons is assessed, and collect the taxes thereon as other taxes are collected;

Cities and towns may assess railroad property.

but the rolling machinery used in operating the road shall be deemed to be embodied in the taxes by the mile.

Railroad companies having possession of railroads under lease, &c., to be responsible for taxes on same.

SEC. 8. In case any railroad or part thereof shall have been, or shall hereafter be leased, conveyed, or mortgaged to any other railroad company, and shall be in the possession of such other company, under such lease, conveyance, or mortgage, the road, or part thereof, so leased, conveyed, or mortgaged, shall, during the continuance of such possession, be assessed, for taxation, as the property of the company having such possession, in the same manner as if it were a part of the road of such lessee, grantee, or mortgagee, under its own charter; and such lessee, grantee, or mortgagee shall, during the continuance of such possession, have all the rights and be subject to all the duties and liabilities in relation to the road, or parts thereof, so held, which are created by this act, and both its property and the road, or parts thereof, so held, with its fixtures and the property used in operating the same, shall be liable for the payment of such taxes, in the same manner as railroad property is, in other cases, made liable for taxes properly assessed against the same.

Repealing clause and emergency declared.

SEC. 9. All laws and parts of laws inconsistent with this act are hereby repealed, and as there is uncertainty in the meaning and effect of the laws previously in force, which ought to be immediately removed, an emergency exists for the immediate taking effect of this act, and it is hereby declared to be in force from and after its passage.

The foregoing act was received for the approval of the Governor on the 18th day of December, 1865.

## CHAPTER XXVIII.

AN ACT to amend an act entitled "An act providing for the election or appointment of Supervisors of Highways, and prescribing certain of their duties, and those of County and township officers in relation thereto." Approved March 5, 1859.

[APPROVED DECEMBER 20, 1865.]

SEC. 1. *Be it enacted by the General Assembly of the State of Indiana:*—That section 1 of said act, which reads as follows, to wit:

Sec. 1 recited.

"[SEC. 1.] That the qualified voters in each township of the several counties in this State, shall elect a supervisor in each of the road districts in their respective townships at the annual township election, held on the first Monday in April in each year, who shall hold his office for one year thereafter, and each supervisor shall receive, for all necessary service, the



sum of one dollar per day, to be paid out of the township treasury. *Provided*, such supervisor shall not be entitled to charge or receive any compensation whatever for a number of days equal to that required and employed by other persons of his road district liable to work on highways," be, and the same is amended to read as follows:

SEC. 1. That the qualified voters in each township of the several counties in this State, shall elect a supervisor in each of the road districts in their respective townships at the annual township election, held on the first Monday in April in each year, who shall hold his office for one year thereafter, and each supervisor shall receive, for all necessary service, the sum of one dollar and fifty cents per day, to be paid out of the township treasury. *Provided*, such supervisor shall not be entitled to charge or receive any compensation whatever, for a number of days equal to that required and employed by other persons of his road district liable to work on highways.

Section 1 as amended.  
Supervisors when elected.

Term of office and fees.

Proviso.

SEC. 2. That section six of said act, which reads as follows, to wit:

"SEC. 6. Such supervisors shall call out all the male persons except insane, idiots, deaf and dumb, and blind persons in such district, who are residents of this State, and over the age of twenty-one, and under fifty years, and not exempt from such labor, during two days in the months of May or June of each year, and shall require each of such persons to work on the highways in such district, eight hours each day, and to furnish in such labor any tool the supervisor may direct, if the demand therefor be a reasonable one," be and the same is amended to read as follows:

S. C. 6 recited.

SEC. 6. Such supervisor shall call out all able-bodied male persons except insane, idiots, deaf and dumb, and blind persons in such district, who are residents of this State, and over the age of twenty-one and under fifty years, and not exempt from such labor, during not less than two, nor more than four days in the months of May or June of each year, and shall require each of such persons to work on the highways in such district eight hours each day, and to furnish in such labor any tool the supervisor may direct, if the demand therefor be a reasonable one.

Section 6 as amended.

Length of time persons may be required to labor on roads.  
Time of working on roads, &c.  
Persons to furnish tools.

SEC. 3. That section eight of said act, which reads as follows, to wit:

"SEC. 8. The supervisor of such district shall make out, within ten days after he is qualified, a list of all persons in his district liable to work on the highways thereof, and present the same to the trustees of such township, who shall enter the same on the record book thereof. Such supervisor shall notify each person in his road district liable to work on the highways thereof, by verbal or written notice, and if written, to be left at the residence of such person, of the time and place of working on such highways at least three days prior to the time designated for such working," be and the same is amended to read as follows:

Sec. 8 recited.

Section 8 as amended. Supervisor to notify persons to work on highways.

SEC. 8. Such supervisor shall notify each person in his road district liable to work on the highways thereof, by verbal or written notice, and if written, to be left at the residence of such person, of the time and place of working on such highways, at least three days prior to the time designated for such working.

SEC. 4. That section ten of said act, which reads as follows, to wit:

Sec. 10 recited.

"SEC. 10. Any person liable to work on highways may be exempted therefrom by paying to the supervisor of his road district, one dollar for each day he is liable to work thereon, and in that case he shall be receipted therefor by the supervisor, which supervisor shall be authorized to employ some person or persons to work out such money, at the rate of seventy-five cents per day, on the roads of his district, or failing so to do, he shall pay over all such money into the township treasury, for the benefit of the road district," be and the same is amended to read as follows:

Section 10 as amended.

How person may be exempted from working on highway.

SEC. 10. Any person liable to work on the highways may be exempted therefrom by paying to the supervisor of his road district one dollar and fifty cents for each day he is liable to work thereon, and in that case he shall be receipted therefor by the supervisor, which supervisor shall be authorized to employ some person or persons to work out such money "at the rate of one dollar and fifty cents per day," on the roads of his district, or, failing so to do, he shall pay over all such money into the township treasury for the benefit of the road district.

SEC. 5. That section eleven of said act, which reads as follows, to-wit:

Sec. 11 recited.

"SEC. 11. Such supervisor, within ten day after warning the hands liable to work on such district, shall bring suit in the name of the township in which such district is situate, against such persons as fail to work or pay over the commutation money therefor, before any justice of the township, and in such suit it shall only be necessary for an account stating the number of days which each of such persons so failed, and charging one dollar per day each therefor, to be filed as a cause of action, and in case of a recovery by such supervisor, the judgment shall be rendered for one dollar for every day the defendant so failed, and costs of suit, and no stay of execution or benefit of exemption, valuation or appraisal law shall be allowed on such judgment; and in case such supervisor shall fail to bring such suit, he shall forfeit and pay the sum of ten dollars, to be recovered before any justice of the township in the name thereof, and all money so recovered under the provisions of this section shall be received and expended by the proper supervisor in the improvement of the highways of his district: *Provided*, Such supervisor shall not be required to bring such suit within ten days against any person or persons from whom there is no probability of collecting, or who at the time of working shall be sick or otherwise disabled from labor," be, and the same is, amended to read as follows:

Section 11 as amended. Supervisor to

SEC. 11. Such supervisor, within ten days after warning the hands liable to work on such district, shall bring

suit in the name of the township in which such district is situate, against such persons as fail to work or pay over the commutation money therefor, before any justice of the township, and in such suit it shall only be necessary for an account stating the number of days which each of such persons so failed, and charging one dollar and fifty cents per day each therefor, to be filed as a cause of action, and in case of a recovery by such supervisor, the judgment shall be rendered for one dollar and fifty cents for every day the defendant so failed, and costs of suit, and no stay of execution, or benefit of exemption, valuation or appraisement law shall be allowed on such judgment; and in case such supervisor shall fail to bring such suit, he shall forfeit and pay the sum of ten dollars, to be recovered before any justice of the township in the name thereof, and all money so recovered under the provisions of this section, shall be received and expended by the proper supervisor in the improvement of the highways of his district: *Provided*, Such supervisor shall not be required to bring such suit within ten days against any person or persons from whom there is no probability of collecting, or who at the time of working shall be sick or otherwise disabled from labor.

SEC. 6. That section twelve of said act which reads as follows, to-wit:

"SEC. 12. Any person liable to perform labor on the public highways, when notified for such purpose, may appear in person or by an able-bodied substitute, and the person or substitute so appearing shall actually work eight hours each day, under a penalty of twelve and a half cents for every hour such person or substitute shall be in default, to be deducted by the supervisor from the price of the day's labor," be, and the same is, amended to read as follows:

SEC. 12. Any person liable to perform labor on the public highways, when notified for such purpose, may appear in person, or by an able-bodied substitute, and the person or substitute so appearing shall actually work eight hours each day, under penalty of twenty-five cents for every hour such person or substitute shall be in default, to be deducted by the supervisor from the price of the day's labor.

SEC. 7. That section thirteen of said act, which reads as follows, to-wit:

"SEC. 13. If any such person, or his substitute, after appearing, shall remain idle or not work faithfully, or shall hinder others from working, such offender shall, for every such offence, forfeit the sum of one dollar, to be collected as other fines and forfeitures herein specified, and he shall be discharged by the supervisor without credit for any part of the work he may have done," be, and the same is, amended to read as follows:

SEC. 13. If any such person, or his substitute, after appearing, shall remain idle or not work faithfully, or shall

bring suit before justice of peace against persons failing to work on road or pay over commutation money.  
What the account shall state

Amount judgment shall be rendered for. No stay of execution, &c., allowed.

Supervisor failing to bring suit shall forfeit the sum of ten dollars, to be recovered, &c.

Proviso.

Sec. 12 recited.

Section 12 as amended. Person liable to work road may furnish substitute. Person or substitute shall work 8 hours. Deduction to be made where party fails to work full time.

Sec. 13 recited.

Section 13 as amended

Penalty for remaining idle or hindering others from work.

Supervisor to discharge party so acting, &c.

hinder others from working, such offender shall, for every such offence, forfeit the sum of one dollar and fifty cents, to be collected as other fines and forfeitures herein specified, and he shall be discharged by the supervisor without credit for any part of the work he may have done.

SEC. 8. That section twenty of said act, which reads as follows, to-wit.:

Sec. 20 recited.

"Section 20. The township trustee, with the concurrence of the Board of County Commissioners, shall assess, annually, a road tax of not more than fifteen cents on the one hundred dollars, to be levied according to the amount of real and personal property owned in said township subject to taxation, and may assess a tax not to exceed one and one-fourth cents on each acre of taxable land, for road purposes, to be collected as provided in the bill defining the duties of township trustee: *Provided, however,* that the tax so assessed on real estate, may be worked out in the road district in which such real estate lies, and the tax assessed on personal property in the district where the owner resides, at the rate of one dollar per day. The supervisor shall obtain a list of all road tax assessed on each individual, and his certificate for the amount worked out shall be taken by the treasurer of the county in payment of said tax;" be and the same is amended to read as follows:

Section 20 as amended. Township trustee shall annually assess road tax.

SEC. 20. The township trustee, with the concurrence of the Board of County Commissioners, shall assess, annually, a road tax of not less than ten nor more than twenty-five cents on the one hundred dollars, to be levied according to the amount of real and personal property owned in said township subject to taxation, and may assess a tax not less than two nor more than five cents on each acre of taxable land, for road purposes, to be collected as provided in the bill defining the duties of township trustee: *Provided, however,* that the tax so assessed on real estate may be worked out in the road district in which such real estate lies, and the tax assessed on personal property in the district where the owner resides at the rate of one dollar and fifty cents per day. The supervisor shall obtain a list of all road tax assessed on each individual, and his certificate for the amount worked out shall be taken by the treasurer of the county in payment of said tax.

Provido.

SEC. 9. That section twenty-nine of said act, which reads as follows, to-wit.:

Sec. 29 recited.

"Section 29. All moneys in the treasury of any county, belonging to a road district thereof, shall be paid over to the trustee of the township in which such district is situate, on the warrant of the proper auditor, and shall be applied to the benefit of such district; the money so paid to the township trustee shall be by him paid out on the order of the supervisor or supervisors of such township; all moneys and labor intended for the improvement of roads shall be expended thereon, on or before the fifteenth day of September in each year;" be and the same is amended to read as follows:

SEC. 29. All moneys in the treasury of any county, belonging to a road district thereof, shall be paid over to the trustee of the township in which such district is situated, on the warrant of the proper auditor, and shall be applied to the benefit of such district: the money so paid to the township trustee shall be by him paid out on the order of the supervisor or supervisors of such township; all moneys and labor intended for the improvement of roads shall be expended thereon, on or before the fifteenth day of August in each year.

Section 29 as amended. Money in treasury belonging to road district to be paid to trustee of township, &c.

Money paid to trustee how paid out by him.

SEC. 30. Each supervisor shall, on the last Saturday in March, in each year, make a full and succinct report, under oath, of his proceedings, showing the names of all persons liable to, or who have performed labor on the roads in his district, the amount of commutation money received, who received from, and the amount of money received from any and all other sources whatever, and how the same has been expended, and the balance on hand, and shall pay such balance to, and file such report with the trustee of his township on that day.

Supervisor shall make report, showing, &c.

SEC. 31. Such township trustee shall audit the reports referred to, and enforce the payment of any such balance, and compel such report by suit before any Justice of the township, in the name thereof, for the use of the proper district, and the measure of recovery shall be the amount of money in such delinquent supervisor's hands, and interest from the date the same was received.

Township Trustee shall audit reports, &c.

SEC. 32. Such supervisor shall be responsible for the care and safe keeping of all the tools belonging to his road district, and on going out of office, shall report the number and kind of tools in his hands to the trustee of his township, under oath; and such trustee shall charge each supervisor, on coming into office, with the whole amount of tools in his district, as shown by the statement of his predecessor in office. And said supervisor shall be liable for any loss of, or damage to, the tools belonging to his road district, occasioned by the neglect of such supervisor, to be recovered in the name of his township, upon the complaint of the trustee of such township before any justice of the peace therein.

Supervisor responsible for safe keeping of tools—his duty on going out of office.

## CHAPTER XXIX.

AN ACT to provide for locating and working highways situated upon, contiguous to, or near by county lines.

[APPROVED DECEMBER 20, 1865.]

Petition representing that public highway is situated near by county line.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That whenever twelve freeholders of any county shall sign and present to the Board of County Commissioners in session, a petition setting forth that a public highway (describing it) in their road district, or districts, township or townships, is situated upon, contiguous to, or near by a county line, and has not been worked for some length of time in consequence of a difference of opinion as to whose duty it was to work said road.

On presentation of petition, such board shall appoint two freeholders, who shall employ surveyor.

SEC. 2. When such petition shall be presented to the Board of County Commissioners, such Board shall appoint two freeholders of the county, not belonging to the road district where such road is required to be worked, who shall employ the county surveyor to perform the duties required by this act.

Auditor to give notice of filing of said petition, &c.

SEC. 3. It shall be the duty of the county auditor of said county to immediately by letter, give notice, through the auditor to the other county board upon whose border said road is situated, of the filing of such petition sending a copy of the same, and also of the appointment of such commissioners referring to this act for authority for so doing; whereupon it shall be the duty of the county board thus notified at their first session after, to appoint a like two commissioners, and the four persons so appointed and the county surveyor shall meet at the time and place designated by such Board of County Commissioners at some convenient point along the line of said road as described in such petition, who having been first sworn according to law, shall proceed to carefully examine the condition and location of said road, and if practicable shall locate such road upon the county line fixing the center of such road upon the county line having first surveyed the whole line of road.

Duty of County Board.

Who to locate route of road.

Route to be located on county line, &c.

Commissioners to make an equal division of route as nearly as possible, taking into consideration amount of labor, &c.

SEC. 4. Such commissioners shall, as nearly as possible, make an equal division of such road, taking into consideration the amount of labor presumed to be necessary to keep such road in repair, as well as the length thereof, and mark the spot by fixing a stone firmly in the ground, and shall determine which of the respective counties shall each work the respective divisions thus designated.

SEC. 5. Such commissioners shall make out a report of the proceedings, describing by metes and bounds the portions of road to be worked by each county; a copy of which shall be duly transmitted to the Board of County Commissioners of each of the two counties, and shall be by them entered upon record, and they shall notify the trustees of the township or townships interested, furnishing them with a copy of the report of such commissioners, that it is hereby made their duty to open and work such road as other country roads are worked, as the law requires.

Commissioners shall make report of proceed-  
ings, &c.

SEC. 6. The county surveyor, when met with such commissioners, is hereby authorized to act with said four commissioners in locating, marking the place and determining what portion of road each respective county shall work: *Provided*, That whenever the Board of County Commissioners of either county, shall fail, refuse, or neglect to appoint commissioners to act upon any petition filed according to the provisions of this act, the two commissioners appointed by the other county, in connection with the county surveyor, shall proceed to discharge all the duties required of the four commissioners, and their action in the premises shall have the same force and effect, and be equally binding, as the action of the four commissioners.

County surveyor to act with commissioners in locating road, &c.

In case County Commissioners fail to appoint Commissioners, &c.

SEC. 7. Such commissioners and surveyor shall each receive for his services one dollar and fifty cents per day for every day they are necessarily employed in performing the duties herein required, and the surveyor, his lawful fees, to be paid out of the county treasury of the respective counties.

Fees of Commissioners and Surveyor.

SEC. 8. All laws or parts of laws coming in conflict with this act be, and the same are hereby, repealed.

Repealing clause.

## CHAPTER XXX.

AN ACT to enable the Board of Directors of any incorporated turnpike company to change the time of holding the election of directors.

[APPROVED DECEMBER 13, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the directors of any turnpike company, constructed under any act of incorporation heretofore granted, may change the time of holding the annual election of directors for the road of which they are directors from the time prescribed in the act of incorporation, and fix such time and place of holding said election as a majority of the board shall determine.

Time of holding election may be changed.

## CHAPTER XXXI.

AN ACT to extend the time allowed by law for the completion of gravel roads for the term of one year, in cases therein specified.

[APPROVED DECEMBER 20, 1865.]

Time for completion of gravel roads extended in certain cases.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That in all cases in which any gravel road company, organized under existing laws of the State, may have completed three-fourths of the entire line of road at the expiration of the time allowed them by law for completing the same, such company shall be entitled one year in addition to the time now allowed to complete their said roads.

Emergency.

SEC. 2. Whereas, an emergency exists for the immediate taking effect of this act, the same shall take effect and be in force from and after its passage, and publication in the Indianapolis Daily Journal and Indianapolis Daily Herald.

NOTE.—Published in the *Indianapolis Daily Journal* and *Indianapolis Daily Herald*, January 4, 1866.

## CHAPTER XXXII.

AN ACT for the incorporation of Hydraulic Companies, and defining their powers and duties.

[APPROVED DECEMBER 20, 1865.]

Hydraulic companies may be formed.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That any number of persons, not less than ten (10) being subscribers of the stock of any contemplated hydraulic company, may be formed into a corporation, for the purpose of constructing, maintaining and owning such hydraulic power, by complying with the requirements following:—They shall unite in articles of association, setting forth the name of the proposed corporation, the route, course or canal proposed to be used or taken for said purposes, and place of location thereof (town and county), where to be constructed, capital stock, number of shares into which divided, and amount taken by each, shall be subscribed to said articles of association. When the stock subscribed shall amount to a sufficient sum to complete the work accord-



ing to estimate of an engineer, copies of the articles of association shall be filed in the recorder's office of the county where said company was formed.

What articles of association shall set forth.

SEC. 2. It shall be lawful for any company so formed to increase their capital stock from time to time as may be necessary for the purpose of completing, maintaining and improving said hydraulic power, or for any other purpose properly connected with the object of the organization, by filing an additional certificate of number of shares, amount, and names of stockholders.

Capital stock may be increased.

SEC. 3. Not less than five (5) directors shall be elected by the stockholders of the corporation, who shall hold their offices for two years and until their successors are elected and qualified. Notice of the first election shall be given by publication in a newspaper, and the board of directors may organize by choosing a president and secretary of their own body, and from thenceforth shall be considered a body corporate and politic in perpetuity, by the name stated in the articles of association, and shall be capable of suing and being sued, and may have a common seal, and shall be capable in law of purchasing, holding and conveying any real estate or personal property for said hydraulic purposes, and all notes, bonds or contracts entered into by the company, signed by the President, shall be binding on the company. A certified copy of said articles of association, given by the recorder of the county where filed, shall, in all courts and places, be presumptive evidence of the incorporation of such company, and of the facts therein stated.

Number of directors, how elected, and term of office.

Notice of election shall be given.

How Board of Directors may organize.  
To be considered body politic, &c.

May buy and sell real estate and personal property, &c.

Certified copy of articles of association to be presumptive evidence.

SEC. 4. The said corporation shall have power with the consent of the owners of the real estate along said water course, or proposed hydraulic canal, to use any water course in the county and erect any dams across the streams named in the articles of association, to cut races or canals, make pools or basins to conduct their water to their mills or machinery, and have the right of way and water by paying the assessed damages thereof to the owners, or any canal constructed that has been abandoned by the organized company by and with the consent of the directors or stockholders of said canal company, have power to purchase and hold the said canal, or part purchased from said company, or if said canal has ceased to be used for the purpose made, and been abandoned by the canal company, then it shall be lawful for said corporation to take possession of, maintain and hold the same for purposes contemplated in their articles of associations.

Corporation, with consent of property holders, to have power to erect dams, &c.

Where canal has been abandoned, corporation may purchase same, with consent of director or stockholders.

SEC. 5. The board of directors shall have power to appoint subordinate officers, agents, engineers, artists and workmen that may be necessary to carry out the objects of

Board of Directors shall have power to appoint subordinate officers et al., &c.

said company, and take bonds from any officers appointed and made payable to said company, and to demand at such time and in such proportions as they shall see fit the sums of money by stockholders on their respective subscriptions, provided that not more than 25 per cent upon each share annually be paid, and upon the payment of the stock of the company shall issue bonds therefor, or certificates of stock.

No part of the Wabash and Erie Canal to be taken possession of under this act. Nothing in this act to prevent the writ of assessment of damages.

SEC. 6. Nothing in this act shall be construed to authorize any corporation to take possession of any part of the Wabash and Erie canal, and be it provided that nothing in this act shall prevent or deny the right of the writ for the assessment of damages.

## CHAPTER XXXIII.

AN ACT defining the powers of companies organized to construct canals for hydraulic purposes.

[APPROVED DECEMBER 21, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That whenever any company, incorporated under the provisions of "An act for the incorporation of manufacturing and mining companies, and companies for mechanical, chemical, and building purposes," approved May 20, 1852, shall desire to construct a canal or race, for the purpose of creating or improving a hydraulic power for manufacturing purposes, such corporation shall possess the powers, and be subject to the liabilities and restrictions expressed in the following, that is to say:

Powers and liabilities of company.

*First.* To cause such examination and surveys as may be necessary to the selection of the most advantageous route for the same; and for such purposes, by their officers, agents, and servants, to enter upon the lands and waters of any person, but subject to responsibility for all damages which they shall do thereto.

*Second.* To receive, hold, and take such voluntary grants and donations of real estate and other personal property as shall be made to it, to aid in the construction, maintenance, and accommodation of such canals; but the real estate thus received by voluntary grants, shall be held and used for the purposes of such grants only.

*Third.* To purchase, and by voluntary grants and dona-

tions, receive and take, and by its officers, engineers, and surveyors and agents, enter upon, and take possession of and hold, and use all such lands and real estate, and other property, as may be necessary for the construction and maintenance of the canal and other accommodations necessary to accomplish the objects for which the corporation is created; but not until the compensation to be made therefor, as agreed upon by the parties, or ascertained as hereinafter prescribed, shall have been paid to the owner or owners thereof, or deposited as hereinafter directed, unless the consent of such owner be given to enter into possession.

*Fourth.* To lay out its canal, not exceeding one hundred feet wide, and to construct the same; and for the purposes of cuttings, embankments, and procuring stone, gravel, and timber may take as much more land within the limits of its charter, in the manner provided hereinafter as may be necessary for the proper construction and security of said canal.

*Fifth.* To construct their canal upon or across any stream of water, water course, road, highway, or railroad, so as not to interfere with the free use of the same, which the route of its road shall intersect, in such manner as to afford security for life or property; but the corporation shall restore the road or highway thus intersected to its former state, or in a sufficient manner not to have unnecessarily impaired its usefulness, or injured its franchises.

*Sixth.* To purchase lands or take them, may change the line of its canal, whenever a majority of the directors shall so determine, as is provided hereinafter; but no such change shall vary the general route of such canal.

SEC. 2. In case any company, formed under this act, is unable to agree for the purchase of any real estate in any county, required for the construction of its canal, it shall have the right to acquire the title to the same in the manner, and by the special proceedings prescribed in this act.

In case company is unable to agree for the purchase of real estate.

SEC. 3. Such company is hereby authorized to enter upon any land for the purpose of examining and surveying its canal line, and may appropriate so much thereof as may be deemed necessary for its canal, including necessary culverts, drains, aqueducts, tail-races, materials for constructing, except timber, a right of way over adjacent lands, sufficient to enable such company to construct and repair its canal, and a right to conduct water by aqueducts, and the right of making proper drains. The corporation shall forthwith deposit with the clerk of the Circuit or other court of record of the county where the land lies, a description of the rights and interests intended to be appropriated, and such land, rights and interests shall belong to such company, to use for the purpose specified,

Company authorized to enter upon land for the purpose of examining and surveying, &c.

Corporation to deposit with clerk of court, description of rights and interests intended to be appropriated &c.

Corporation  
may purchase  
lands, &c.

In case land is  
owned by insane  
persons or in-  
fants.

When corpora-  
tion to make  
publication of  
instrument of  
appropriation.

When apprais'rs  
are to be ap-  
pointed, and by  
whom.

Appraisers shall  
be sworn—their  
duty.

Corporation to  
pay or tender  
amount assessed.

When lawful for  
corporation to  
hold interest in  
lands or mate-  
rials, &c.

Cost of award to  
be paid by com-  
pany.

Court may order  
payment of  
award, &c.

by making or tendering payment as hereinafter provided. The corporation may, by its directors, purchase any such lands, materials, right of way or interest of the owner of such land; or in case the same is owned by a person insane or an infant, at a price to be agreed upon by the regularly constituted guardian of said insane person or infant, if the same shall be appraised by the court in which the description aforesaid shall be filed, and on such agreement and approval, the owner or guardian, as the case may be, shall convey the said premises so purchased, in fee simple or otherwise, as the parties may agree, to such canal company; and the deed, when made, shall be deemed valid in law. If the corporation shall not agree with the owner of the land, or with his guardian if the owner is incapable of contracting, touching the damages sustained by such appropriation, such corporations shall deliver to such owner or guardian, if within the county, a copy of such instrument of appropriation. If the owner, or his guardian in case such owner is incapable of contracting, be unknown or do not reside within the county, such corporation shall publish in some newspaper of general circulation in the county, for the term of three weeks, an advertisement reciting the substance of such instrument of appropriation; upon filing such act of appropriation and delivery of such copy, or making such publication, the Circuit Court or other court of record in the county where the land lies, or any judge thereof in vacation, upon the application of either party, shall appoint by warrant, three disinterested freeholders of such county, to appraise the damages which the owner of the land may sustain by such appropriation; such appraisers shall be duly sworn; they shall consider the injury which such owner may sustain by reason of such canal, and shall forthwith return their assessment of damages to the clerk of such court, setting forth the value of the property taken, or injury done to the property, which they assess to the owner or owners separately, to be by him filed and recorded; and thereupon, such corporation shall pay to said clerk the amount thus assessed, or tender the same to the party in whose favor the damages are awarded or assessed; and on making payment or tender thereof in the manner herein required, it shall be lawful for such corporation to hold the interest in such lands or materials so appropriated, and the privilege of using any materials on said canal line within fifty feet on each side of the center of such canal line, for the uses aforesaid. The cost of such award shall be paid by such company; and on notice by any party interested and showing said proceedings, the court may order payment thereof, and enforce such

payment by execution. The award of said arbitrators may be reviewed by the Circuit Court or other court in which such proceedings may be had, on written exceptions filed by either party in the clerk's office within ten days after the filing of such award, and the court shall take such order therein as right and justice may require, by ordering a new appraisement on good cause shown. *Provided*, If, prior to the assessment, the corporation shall tender to such owner, or his guardian if he be unable to contract, an amount equal to the award afterwards made, exclusive of costs, the costs of arbitration shall be paid equally by such company and such owner or guardian.

Award of arbitrators may be reviewed.

Proviso.

SEC. 4. If there are adverse or conflicting claimants to the money, or any part of it, to be paid as compensation for the real estate taken, the court may direct the money to be paid into said court, by said company, until it can determine who is entitled to the same; and shall direct to whom the same shall be paid; and may, in its discretion, order a reference to ascertain the facts on which said determination and order are to be made.

In case of adverse claimants, Where money to be paid.

SEC. 5. The court shall appoint some competent attorney to appear for and protect the rights of any party in interest who is unknown, and who has not appeared in the proceedings by an attorney or agent; the court shall also have power at any time, to amend any defect or informality in any of the special proceedings authorized by this act as may be necessary, or to cause new parties to be added, and to direct such further notice to be given to any party in interest as it deems proper; and also to appoint other commissioners in the place of any who shall die, or refuse, or neglect, or are unable to serve, or who may leave or be absent from the State.

Court shall appoint attorney to protect rights of unknown party, &c.

Court to amend defects in special proceedings, &c.

SEC. 6. At any time after an attempt to acquire title by appraisal of damages, or otherwise, if it shall be found that the title thereby attempted to be acquired is defective, the company may proceed anew to acquire or perfect the same, in the same manner as if no appraisal had been made.

In case of defective title.

SEC. 7. It is declared that an emergency exists for the immediate taking effect of this act; and the same shall therefore take effect and be in force from and after its passage.

Emergency.

## CHAPTER XXXIV.

AN ACT concerning the creation of corporations for the purpose of maintaining High Schools within the State, and giving the requisite powers to such corporations.

[APPROVED DECEMBER 20, 1865.]

Persons may associate themselves together for the purpose of establishing high schools.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That any persons may associate themselves for the purpose of establishing or maintaining a high school or schools, connected or not connected with any church, in any cities, towns or counties within this State.

How association shall be formed.

SEC. 2. Every such association shall be formed by written articles specifying the objects of the same, the conditions of membership, the corporate name, with an impression and description of the corporate seal, and signed by each person who may be a member at the time of the organization.

From what time association to be considered a corporation, &c.

SEC. 3. Every such association shall, from the time such articles shall be filed for record in the office of the recorder of the county in which their school is situate, be deemed and held to be a corporation, and shall have and possess the powers, rights, privileges and franchises given to corporations.

Power of corporation.

SEC. 4. Every such corporation shall have power to acquire, by purchase, devise, gift, subscription or otherwise, such real or personal property as may be necessary or proper for the purpose of establishing or maintaining such school or schools, and may mortgage or transfer the same, or any part thereof, for the same purpose, or other purposes of the corporation, and may borrow money and issue bonds therefor, and secure the same by mortgage on all or any part of its property.

Duty of clerk, registrar, or secretary of corporation.

SEC. 5. The clerk, registrar or secretary of every such corporation, shall keep a fair record of the proceedings thereof, and such record or copies thereof, attested by such clerk, registrar or secretary, may be read in evidence when the interests of such corporations are concerned in any suit of law.

Corporati'n may establish rules, by-laws, &c.

SEC. 6. Such corporation may establish such rules and by-laws as may be necessary or proper for its government, and may determine how many members shall constitute a quorum for the transaction of business.

Corporation may sell scholarships.

SEC. 7. Such corporation may have power to sell scholarships in their school upon such terms as they may see

fit, and to confer suitable degrees upon the graduates of their school.

SEC. 8. If any such school shall be connected with any church, or association of churches, or with any diocese within this State, then the members of such corporation may be elected from year to year by the convention of such churches or diocese; and any failure so to elect shall not affect the existence or franchises of such corporations; but the acting members of the corporations shall continue to constitute the corporation until their successors are so elected, nor shall any public record or notice of such election be required.

When school is connected with church or churches, members of corporation how elected, &c.

SEC. 9. The dues from the corporation shall constitute a lien on its real estate from the time notice thereof is given to the clerk, registrar or secretary, and filed and recorded in the office of the recorder of the county wherein such school is situate.

Dues from corporation to constitute a lien, &c.

SEC. 10. Whereas there are schools within the State, which it is desirable at once to organize under this act, it is hereby declared that this act shall take effect from and after its passage.

Emergency.

## CHAPTER XXXV.

AN ACT to provide for the distribution of the interest on the School, Sinking, and Trust Funds of this State, held for the support of common schools, to repeal all laws in conflict therewith, and declaring an emergency.

[APPROVED NOVEMBER 21, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That all interest accrued or accruing on the Sinking Fund, or any other fund held by this State, for the benefit of the common schools of this State, shall, on and after the first day of January, one thousand eight hundred and sixty-five, be and the same is hereby set apart for distribution as other revenues are distributed, for the support of the common schools of this State.

Interest on funds held for the use of common schools, after the first day of January, A. D. 1865, to be set apart and distributed as other funds.

SEC. 2. All laws and parts of laws in conflict with this act are hereby repealed.

Repealing clause.

SEC. 3. Whereas, the present fund for distribution is not sufficient for the support of the common schools of this State, therefore, an emergency is declared, and this act shall be in force from and after its passage, and filing in the office of the Secretary of State.

Emergency declared.

NOTE.—The above act was filed in the office of Secretary of State on the 21st day of November, A. D. 1865.

## CHAPTER XXXVI.

AN ACT to create a State Normal School, and declaring an emergency.

[APPROVED DECEMBER 20, 1865.]

Object of Normal School.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That there shall be established and maintained, as hereinafter provided, a State Normal School, the object of which shall be the preparation of teachers for teaching in the common schools of Indiana.

Governor to appoint trustees. Their powers, &amp;c.

SEC. 2. In order to the establishment and maintenance of such a school, the Governor shall appoint, subject to the approval of the Senate, four competent persons, who shall in themselves, and in their successors, constitute a perpetual body corporate, with power to sue and be sued, and to hold in trust all funds and property which may be provided for said Normal School, and who shall be known and designated as the "Board of Trustees of the Indiana State Normal School." The Superintendent of Public Instruction shall be *ex-officio* member of this board.

Members of board, terms of office, vacancies how filled.

SEC. 3. That two members of this board shall retire, as may determined by lot or otherwise, in two years after their appointment; and the remaining two in four years; whereupon the Governor, subject to the approval of the Senate, shall appoint, as aforesaid, their successors for a period of four years. All vacancies occurring in said board from death or resignation, shall be filled by appointments made by the Governor.

Meeting of board.

SEC. 4. Said board of trustees shall meet on the second Tuesday in January, 1866, at the office of the Superintendent of Public Instruction, and shall organize by electing one of their number President and one Secretary, each for a term of two years; and at this or at a subsequent meeting, they shall elect some suitable person outside of their number as Treasurer, who shall, before entering on duty, give bond in such sum as they may prescribe.

Secretary and Treasurer to be chosen.

Books to be opened for donations—person may be appointed to explain object of school.

SEC. 5. Said board shall, at its first meeting, open books to receive from different parts of the State proposals for donations of grounds and buildings, or funds for the procuring of grounds and erection of buildings for said Normal School; also, they may, if deemed needful, at this or a subsequent meeting, appoint one of their number, or other competent person, to visit different parts of the State and explain the nature and objects of said Normal Schools, and to receive proposals of donations of buildings and grounds, or of funds for the same.



SEC. 6. Said board shall locate said school at such place as shall obligate itself for the largest donation: *Provided, first*, That said donation shall not be less, in cash value, than fifty thousand dollars: *Second*, That such place shall possess reasonable facilities for the success of said school. Where school to be located.

SEC. 7. Said board shall immediately after the selection of place of location, proceed to let a contract or contracts for the erection of a building, to the lowest responsible bidder: *Provided*, That no member of the board be a contractor for building, or for furnishing any material therefor. Contract for erection of building.

SEC. 8. Said board shall organize in connection with the Normal School, in the same building with the Normal School, or in a separate building, as they shall decide, a Model School, wherein such pupils of the Normal School, as shall be of sufficient advancement, shall be trained in the practice of organizing, teaching and managing schools. Model school.

SEC. 9. Said board shall prescribe the course of study for the Normal School, shall elect the instructors, and fix their salaries, and shall determine the conditions, subject to limitations hereinafter specified, on which pupils shall be admitted to the privileges of these schools. Course of study. Salaries of instructors.

SEC. 10. The following conditions shall be requisite to admission to the privileges of instruction in the Normal School: Conditions upon which pupils are to be admitted into said school.

*First.* Sixteen years of age, if females, and eighteen, if males.

*Second.* Good health.

*Third.* Satisfactory evidence of undoubted moral character.

*Fourth.* A written pledge on the part of the applicant, filed with the principal, that said applicant will, so far as may be practicable, teach in the common schools of Indiana a period equal to twice the time spent as a pupil in the Normal School; together with such other conditions as the Board may from time to time impose.

SEC. 11. Tuition in the Normal School shall be free to all residents of Indiana who fulfil the four conditions set forth in section 10 of this act, and such other conditions as the Board may require. Tuition to be free.

SEC. 12. A high standard of christian morality shall be observed in the management of the school, and so far as practicable, be inculcated in the minds of the pupils, yet no religious sectarian tenets shall be taught. Christian morality to be observed in management of school.

SEC. 13. Said Board of Trustees shall biennially make a report to the Legislature, setting forth the financial and scholastic condition of the schools; also making such suggestions as in their judgment will tend to the improvement Board of Trustees to report biennially.

of the same; and the years in which there is no session of the Legislature, they shall make a report of the scholastic condition of these schools to the Governor on or before the first Monday in January.

Board of visitors.

SEC. 14. The President of the State University, the President of the Agricultural College, and the Chief Justice of the Supreme Court of Indiana, shall constitute a Board of Visitors, who shall, in a body, or by one of their number, visit said schools at least once each term, and witness the exercises, and otherwise inspect the literary condition of these schools, and at the close of each academic year, they shall make a report to the Board of Trustees.

Normal school fund.

SEC. 15. As soon as the Normal School is open to receive students, the Board of Trustees shall inform the Superintendent of Public Instruction, whereupon he shall, in his next apportionment of the school revenue for the State, deduct five thousand dollars, and semi-annually thereafter he shall deduct the same amount, which shall be set apart, and be known and held as the Normal School Fund. This money shall be paid out only on the warrant of the Auditor, drawn on the order of the Board of Trustees.

Fees of members of Board.

SEC. 16. The members of the Board of Trustees shall each be allowed five dollars for each day's service rendered, also traveling expenses, to be paid out of the State treasury.

Fees of treasurer and agent.

SEC. 17. Said Board shall pay their treasurer, and their agent, if such be appointed as provided for in section fifth of this act, such sums for their services as shall be reasonable and just.

Emergency declared.

SEC. 18. Whereas an emergency exists for the immediate taking effect of this act, it is hereby declared that it shall take effect and be in force from and after its passage.

## CHAPTER XXXVII.

AN ACT to amend section thirty-five (35) of an "act to provide for a general system of common schools, the officers thereof, and their respective powers and duties and matters properly connected therewith, and prescribing the fees for certain officers therein named, and for the establishment and regulation of Township Libraries and to repeal all laws inconsistent therewith, providing penalties therein prescribed," approved March 6, 1865.

[APPROVED DECEMBER 20, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section number thirty-five of the above recited act which reads in the words following, to-wit:

Sec. 35 recited.

"SEC. 35. If the persons attached to and forming a school district have, at their school meeting, designated other branches of learning in addition to those in the last section above mentioned which they desire to have taught in their school, the trustee in employing a teacher for said school shall require said teacher to be examined as to his or her qualifications to teach such additional branches," be and the same is hereby amended to read as follows, to-wit:

Section 35 as amended.

SEC. 35. If the persons attached to and forming a school district have at their school meeting designated other or a less number of branches of learning to those in the last section above mentioned which they desire to have taught in their school, the trustee in employing a teacher for said school shall require said teacher to be examined as to his qualifications to teach the branches of learning required at said school meeting.

Teacher to be examined as to his qualification to teach branches designated at school.

Emergency declared.

SEC. 2. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in force from and after its passage, and publication in the Indianapolis Daily Journal and Indianapolis Daily Herald.

NOTE.—Published in the *Indianapolis Daily Journal* and *Indianapolis Daily Herald*, December 23, 1865.

## CHAPTER XXXVIII

AN ACT entitled an act requiring County Auditors to make examination of the records in their offices in relation to school funds, and make report, and providing compensation therefor, and declaring an emergency.

[APPROVED DECEMBER 21, 1865.]

County auditors to examine books, &c., in relation to school funds.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the Auditors of the several counties of this State be, and they are hereby, required to examine all, or so many of the books, papers and records on file in their offices, relating to the school funds, common and Congressional, as shall enable them to ascertain the amount of said funds held in trust by their several counties.

Amount ascertained to be submitted to county commissioners for approval, &c.

Auditor to forward copy to Superintendent of Pub Inst.

Sup't. of Public Inst. to cause the same to be recorded, and notify auditor of approval.

Said statements to be taken as evidence.

Auditor's fees.

Emergency declared.

SEC. 2. The amounts thus ascertained, shall be, by said auditors, submitted to the Board of County Commissioners for approval, and when so approved by the Board, shall be spread on the records of said Commissioners' Court, and the auditor shall forward a duly certified copy thereof to the Superintendent of Public Instruction on or before the third Monday in June, 1866, for his approval, and when approved by the Superintendent of Public Instruction, he shall cause the same to be recorded in a book kept for that purpose in his office, and when so recorded, he shall notify the county auditors making such reports, of his approval; and said statements, when so approved, shall be taken as conclusive evidence of the facts therein contained.

SEC. 3. The auditors of the several counties, for their services in making said investigation and reports, shall receive such compensation for their services as they are allowed for similar services, to be allowed by the Board of County Commissioners and paid out of the county treasury.

SEC. 4. Whereas an emergency exists for the immediate taking effect of this act, therefore it shall take effect and be in force from and after its passage.

## CHAPTER XXXIX.

AN ACT to authorize high schools, academies, colleges, universities, theological institutions and missionary boards formed under the general laws of this State, to change their corporate names.

[APPROVED DECEMBER 20, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the trustees of high schools, academies, universities, theological institutions and missionary boards, incorporated under the general laws of this State, may by an order passed by a vote of three-fourths of their whole number, to be entered upon their records, change the names of their respective corporations, and under such new names shall have the same rights and powers, and be subject to the same obligations and liabilities as though no change of name had been made.

How trustees of high schools &c., may change the name of corporation.

SEC. 2. Within thirty days after the change of name has been made as provided for in the first section of this act, the Clerk or Secretary of the Board of Trustees shall make two copies of the order so entered upon the records as aforesaid and verify the same by affidavit, and file one in the office of the Clerk of the Circuit Court of the county where such corporation is located, and the other in the office of the Secretary of State.

When change is made, clerk of board shall file copies of order in clerk's office, and in office of Sec'y of State.

## CHAPTER XL.

AN ACT to legalize the sale of certain school lands in Lake county.

[APPROVED DECEMBER 19, 1865.]

WHEREAS, It has been made to appear that in some civil townships, embracing more than one congressional or parts of congressional townships, the school lands belonging to them have been sold upon the primary action of the people of the civil instead of the congressional township, as provided by section 51, school law of 1861; and it is claimed by purchasers that such sales were illegal and void; therefore,

Preamble.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That sales of school lands heretofore made, hereby legalized, &c.

G. L.—10

tofore made in Lake county upon the petition and vote of the people of a civil township, as is provided for by the people of a congressional township, be and the same is hereby made as legal and valid as if done by the people of the congressional township to which the land belonged:

Proviso.

*Provided*, nothing herein contained shall authorize the diversion of any funds, arising from such sales, from the people of the congressional township to whom the land sold belongs.

Emergency.

SEC. 2. It is hereby declared that an emergency exists for the immediate taking effect of this act, it shall, therefore be in force from and after its passage.

## CHAPTER XLI.

AN ACT to authorize cities to prepare, execute, negotiate and sell bonds, to provide means to complete unfinished school buildings, and to pay debts contracted for the erection of school buildings, and to authorize the levy and collection of an additional special tax to provide means for the payment of the interest and principal of such bonds, and declaring an emergency.

[APPROVED DECEMBER 2, 1865.]

Cities may issue and sell bonds to complete unfinished school buildings, &c.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That any city in this State which shall have commenced the erection of any building for school purposes, or which shall have contracted a debt for the erection of any such building, and which shall not have the necessary means with which to complete such building and pay such debt, may on the passage of an ordinance by the Common Council of such city issue the bonds of such city to an amount not exceeding in the aggregate thirty thousand dollars of a denomination not less than one hundred dollars, nor more than one thousand dollars, and payable at any place which may be designated in such bonds the principal in not less than one year nor more than twenty years after the date of such bonds, and the interest annually or semi-annually as may be therein provided. And for the purpose of providing the means with which to complete such building and pay such debt, such Common Council may from time to time, negotiate and sell as many of such bonds as may be necessary for such purposes, in any place, and for the best price that can be obtained therefor in cash, provided that such bonds be not sold at a less price than ninety-eight cents on the dollar.

SEC. 2. *And be it further enacted,* That in addition to the levying of the special school tax, now authorized by law to be levied and collected, such Common Council shall annually at the same time, and in like manner, levy such additional special tax as may be necessary to provide the means to pay the interest and principal of said bonds as the same shall fall due, which additional special tax shall be collected in the same manner as is now provided by law for the collection of other taxes, provided that the aggregate special tax including the additional special tax so levied and collected, shall not exceed fifty cents on the one hundred dollars of the taxable property of such city, and one dollar on each poll, in any one year.

Common Council to levy additional special tax if necessary, to pay interest and principal of bonds.

Aggregate tax not to exceed 50 cents on the one hundred dollars, and one dollar on each poll.

SEC. 3. The advancement of the cause of education requires that this act shall take immediate effect, and an emergency exists for the immediate taking effect thereof. Therefore, this act shall take effect and be in force from and after its passage.

Emergency.

## CHAPTER XLII.

AN ACT to fix the time of holding the Court of Common Pleas in the county of Grant, and repealing all laws in conflict therewith.

[APPROVED, DECEMBER 20, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the Court of Common Pleas, in the county of Grant, shall hereafter sit as follows: On the second Monday of March and July, and on the third Monday of December in each year, and shall sit two weeks at each term, if the business thereof require it.

Times of holding Common Pleas Court in Grant county.

SEC. 2. *Be it further enacted,* That all laws inconsistent herewith are hereby repealed.

Repealing clause.

SEC. 3. *Be it further enacted,* That an emergency exists for the immediate taking effect of this act, therefore, the same shall be in force from and after its passage.

Emergency.

## CHAPTER XLIII.

AN ACT to amend the eighth section of an act entitled "An act to fix the time of holding the Common Pleas Courts in the several counties in this State, the duration of the terms thereof, and making all process from the present Common Pleas Courts returnable to such terms, and declaring when the same shall take effect, and repealing all laws inconsistent therewith," approved March 5th, 1859, and which eighth section was amended and approved March 11th, 1861.

[APPROVED DECEMBER 20, 1865.]

[SECTION 1.] *Be it enacted by the General Assembly of the State of Indiana,* That the eighth section of the above recited amended act, (approved March 11th, 1861,) which reads as follows, namely:

Sec. 8 recited.

"Section 8. In the county of Morgan, on the first Mondays of February, June, and October; in the county of Johnson, on the third Mondays in February, June, and October; in the county of Shelby, on the first Mondays in March, July, and November; in the county of Brown, on the fourth Mondays in March, July, and November; in the county of Monroe, on the first Mondays in April, August, and December; and the terms of said court in the counties of Morgan, Johnson, and Monroe, shall continue two weeks, if the business require it; and in the county of Shelby three weeks, if the business require it; and in the county of Brown one week, if the business require it;" be and the same is hereby amended to read as follows, namely:

Section 8 as amended.  
Times of holding court in the counties of Morgan, Johnson, Shelby, Brown, and Monroe.

SEC. 8. In the county of Morgan, on the third Mondays of January, and the first Mondays of June and October in the county of Johnson, on third Mondays of February, June, and October; in the county of Shelby, on the first Mondays in March, July, and November; in the county of Brown, on the first Mondays of March, July, and November; and in the county of Monroe, on the first Mondays of April and December, and the third Mondays in August; and the terms of said court in the counties of Morgan, Johnson, and Monroe, shall continue two weeks, if the business require it; and in the county of Shelby three weeks, if the business require it; and in the county of Brown one week, if the business require it.

All writs, &c., heretofore issued made returnable on first day of said terms.

SEC. 2. All writs, subpoenas, venuries, rules, orders of court, recognizances, publications, and processes whatever, which may have issued from the Common Pleas Court in the counties of Morgan and Monroe, shall be deemed and taken to be, and are hereby made, returnable on the first days of the terms to be holden by virtue of this act.



SEC. 3. Inasmuch as the Court of Common Pleas, in the counties of Morgan and Monroe, will sit after the passage of this act, and before the same can be filed in the several counties of this State, it is, therefore, declared that an emergency exists for the immediate taking effect of this act, and that the same shall take effect and be in force from and after its passage. Emergency.

## CHAPTER XLIV.

AN ACT to legalize and declare valid and effectual all the orders, judgments and other proceedings made, rendered and had by and before the Court of Common Pleas of Whitley county, in this State, held in the court house of said county in the month of March, in the year one thousand eight hundred and sixty-five, and then and there before the regular judge of said court.

[APPROVED DECEMBER 20, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That all the orders, judgments and others proceedings made, rendered and had by and before the Court of Common Pleas of Whitley county, in the State of Indiana, held in the court house of said county, in Columbia city of said county, on and from the thirteenth day of March until and on the eighteenth day of March, both the first and last named days inclusive, in the year one thousand eight hundred and sixty-five, and then and there by and before the regular judge of said court, be and the same are hereby legalized and declared valid and effectual in all respects as though the said court was then and there legally held. Proceedings in  
Common Pleas  
Court of Whit-  
ley county from  
the 10th to the  
18th day of  
March, inclu-  
sive, A. D. 1865,  
legalized.

SEC. 2. An emergency for the immediate taking effect of this act is hereby declared, and the same shall, therefore, take effect and be in force from and after its passage. Emergency.

## CHAPTER XLV.

**AN ACT** to amend sections two and five of an act entitled "an act providing for an organization of Circuit Courts, the election of Judges thereof, and defining their powers and duties," approved June 1, 1852, and providing for Criminal and Civil Circuit Courts.

[APPROVED DECEMBER 20, 1865.]

**SECTION 1.** *Be it enacted by the General Assembly of the State of Indiana,* That sections two and five of an act entitled "an act providing for an organization of Circuit Courts, the election of Judges thereof, and defining their powers and duties," which reads as follows, to wit:

Sec. 2 r. cited.

"SEC. 2. Each court held in the respective counties of such circuit, shall be called and styled a Circuit Court, according to the name of the county in which it may be held."

"SEC. 5. Such Circuit Courts, in their respective counties, shall have original exclusive jurisdiction of all cases of slander, libel, breach of the marriage contract, and when the title to real estate shall be in issue, and in all other civil actions where the amount is one thousand dollars or upwards; and concurrent jurisdiction when that amount is under one thousand dollars, except as otherwise provided by law, and original exclusive jurisdiction in all felonies, and such appellate jurisdiction as may be prescribed by law," shall be amended so as to read as follows, to wit:

Section 2 as amended.

Name and style of courts.

**SEC. 2.** Each court held in the respective counties of such circuits shall be called and styled \_\_\_\_\_ Circuit Court, or \_\_\_\_\_ Civil Circuit Court, or \_\_\_\_\_ Criminal Circuit Court, according to the name of the county and the jurisdiction.

Jurisdiction of Circuit Courts.

**SEC. 5.** Such Circuit Courts, in their respective counties, shall have original, exclusive jurisdiction of all cases of slander, libel, breach of the marriage contract, and where the title to real estate shall be in issue, and concurrent jurisdiction, except as otherwise provided by law, in all civil actions, and original jurisdiction in all felonies, and concurrent jurisdiction with the Common Pleas and Justices of the Peace in misdemeanors, except in those cases where the fine cannot exceed three dollars, and such appellate jurisdiction as is or may be provided by law. And such Civil Circuit Court shall have original, exclusive jurisdiction of all cases of slander, libel, breach of marriage contract, and where the title to real estate shall be in issue, and concurrent jurisdiction, except as otherwise provided by law, in all civil actions, and such appellate jurisdiction as is or may be provided by law, and of all civil cases now pending in the Circuit Court; and the Judge thereof shall be the

Circuit Court to have concurrent jurisdiction in misdemeanors.

Judge of the Civil Circuit Court. And such Criminal Circuit Court shall have original, exclusive jurisdiction of all felonies and all misdemeanors, except as provided by law for Justices of the Peace, and shall have such appellate jurisdiction in all criminal actions, as is or may be provided by law for the Circuit Court. And the Criminal Circuit Court shall be organized and held in all counties having ten thousand voters or more therein, which fact is to be ascertained by the Governor, and certified by him to the clerks of such counties. And in all counties in which the Criminal Circuit Court is organized, the Civil Circuit Court shall have no criminal jurisdiction, but shall have only the jurisdiction of the Circuit Court in civil cases.

Criminal Circuit Court to have original exclusive jurisdiction of felonies and misdemeanors.

Criminal Circuit Court to be organized in all counties having ten thousand voters, or more.

SEC. 2. It is hereby declared that an emergency exists for the immediate taking effect of this act, and it is therefore declared to be in force from and after its passage.

Emergency.

## CHAPTER XLVI.

AN ACT to fix the time of holding the Circuit Court in the several counties composing the Seventh Judicial Circuit, and repealing all laws in conflict therewith.

[APPROVED DECEMBER 20, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the Circuit Court in said circuit shall be held in the several counties thereof as follows, viz: In the county of Hancock on the second Mondays of February and August of each year, and shall sit three weeks if the business thereof requires it. In the county of Hamilton, on the Monday next succeeding the courts in the county of Hancock, and shall sit three weeks if the business thereof requires it. In the county of Tipton on the Monday next succeeding the courts in the county of Hamilton, and shall sit two weeks if the business thereof requires it. In the county of Madison on the Monday next succeeding the courts in the county of Tipton, and shall sit three weeks if the business thereof requires it. In the county of Delaware on the Monday succeeding the courts in the county of Madison, and shall sit three weeks if the business thereof requires it. In the county of Howard on the Monday succeeding the courts in the county of Delaware, and shall sit three weeks if the business thereof requires it. In the county of Blackford on the Monday

Time of holding Circuit Court in Hancock county, and length of term.

In Hamilton co.

In Tipton co.

In Madison co.

In Delaware co.

In Howard co.

In Blackford co.

succeeding the courts in the county of Howard, and shall sit two weeks if the business thereof requires it.

Parties to take notice of this act.

Writs and notices issued before the taking effect of this act, made returnable on the first days of said terms, &c

SEC. 2. All parties in said Circuit Courts, and all witnesses, jurors, officers or other persons concerned, shall take notice of this act; all writs or notices that may have been issued or served, before the taking effect of this act, in relation to matters now pending in any of said courts, are hereby made returnable to the first day of the next term of said courts, as fixed by this act, and all suits, recognizances, motions, rules and other proceedings, which at the time of the taking effect of this act, shall be pending in any of said courts, shall be acted upon therein, in the same manner as if this act had been in force at the time they were taken, commenced or instituted.

Repealing clause.

SEC. 3. All acts contravening the provisions of this act are hereby repealed.

Emergency.

SEC. 4. Inasmuch as the business of some of said courts is behind, in consequence of not having a sufficient length of time allowed them for the transaction of business, an emergency exists for the immediate taking effect of this act, and it shall therefore be in force from and after its passage.

## CHAPTER XLVII

AN ACT to amend the fifth section of an act entitled "An act providing for an organization of Circuit Courts, the election of judges thereof, and defining their powers and duties," approved June 1, 1852.

[APPROVED DECEMBER 21, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the fifth section of said act, which reads as follows, to-wit:

Sec. 5 recited.

["Section 5.] Such Circuit Courts, in their respective counties, shall have original, exclusive jurisdiction of all cases of slander, libel, breach of marriage contract, and when the title to real estate shall be in issue, and in all other civil actions where the amount involved is one thousand dollars or upward, and concurrent jurisdiction when that amount is under one thousand dollars, except as otherwise provided by law; and original, exclusive jurisdiction in all felonies, and such appellate jurisdiction as may be prescribed by law;" be amended to read as follows:

Section 5 as amended.  
Jurisdiction of Circuit Courts.

SEC. 5. Such Circuit Courts, in their respective counties, shall have original, exclusive jurisdiction of all cases of slander, libel, breach of marriage contract, and when the

title to real estate shall be in issue, and in all other civil actions where the amount involved is one thousand dollars or upwards, and concurrent jurisdiction when the amount is under one thousand dollars, except as otherwise provided by law; and original, exclusive jurisdiction in all felonies, and such appellate jurisdiction as may be prescribed by law; and, also, concurrent jurisdiction of all misdemeanors, except where the fine can not exceed three dollars: *Provided*, That the reenactment of this section shall not prevent the Common Pleas from exercising the jurisdiction which it now has by law, except so far only as to give the Circuit Court concurrent jurisdiction of misdemeanors as aforesaid.

Circuit Court to have concurrent jurisdiction of misdemeanors, &c. Proviso.

SEC. 2. There being an emergency for the immediate taking effect of this act, the same shall be in force from and after its passage.

Emergency.

## CHAPTER XLVIII.

AN ACT creating the Sixteenth Judicial Circuit, and providing for the election of a Judge and Prosecuting Attorney thereof, and providing compensation therefor, and declaring its jurisdiction, and providing for a transfer of actions thereto.

[APPROVED DECEMBER 20, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the county of Marion shall be created into and constitute the Sixteenth Judicial Circuit, and there shall be established therein a Criminal Circuit Court, with jurisdiction as provided by law; but this act shall not, in any way, interfere with the organization of the Marion Circuit Court, as now provided by law, nor its jurisdiction, except in criminal cases. The said Criminal Court shall be held at the Court House, in Indianapolis, or at such other place in said city as the Board of Commissioners of said county may provide. The clerk and sheriff of the Marion Circuit Court shall be the clerk and sheriff of the said Criminal Court. The said court shall, in all things not otherwise provided by law, be governed by the law now in force in regard to Circuit Courts; and the judge and prosecuting attorney, clerk and sheriff shall receive the same salary and fees allowed by law to the judge, prosecuting attorney, clerk, and sheriff of the Circuit Court.

Sixteenth Judicial Circuit created.

Commencement  
and length of  
terms of said  
court.

SEC. 2. The criminal courts of said county shall commence on the first Mondays of January and July, of each year, and hold for six months, if the business thereof may require it, and shall be open, at all times, for criminal trials, and shall try criminal actions alone, as provided by law for Criminal Circuit Courts.

Judge and Prosec-  
uting Attorney  
to be elected  
for said court.

SEC. 3. At the general election, on the second Tuesday of October next, there shall be elected, by the qualified voters of said county, a Judge and Prosecuting Attorney for said Circuit, who shall be commissioned and qualified, and hold the office in the manner required by law.

Vacancy de-  
clared to exist  
in said offices.

SEC. 4. It is hereby declared that on the taking effect of this act there is a vacancy in said office of Judge and Prosecuting Attorney, and the Governor shall fill said vacancy by appointment, under the provisions of the Constitution and laws of the State.

Writs, &c., of  
other courts  
made returnable  
to this court.

SEC. 5. All writs, subpoenas, venires, rules, orders of Court, recognizances, publications, and process whatever, which may have issued from the Circuit and Common Pleas Courts in said county, or which may hereafter be issued previous to the commencement of said terms, in criminal actions, shall be deemed and taken to be, and are hereby made returnable to the first day of the first term of said Court, to be holden as provided in this act, and all indictments and informations now pending in said county, shall be transferred to said Court for trial and final disposition, and such Criminal Circuit Court shall have complete jurisdiction of such actions; and persons convicted of felony in such court and sentenced to hard labor in the State prison, shall be promptly forwarded to the prison in which they are sentenced to be confined: *Provided, That* where there are not more than three convicts under such sentence at one time they shall not be forwarded to such prison until the end of the term at which they were convicted, unless by order of the court.

Emergency.

SEC. 6. It is hereby declared that an emergency exists for the taking effect of this act, and that it shall be in force from and after its passage.

## CHAPTER XLIX.

AN ACT to amend the fourteenth section of an act entitled an act to limit the number of Grand Jurors, and to point out the manner of their selection, defining their jurisdiction, and repealing all laws inconsistent therewith, approved March 4, 1852, and to change the form of the oath of Grand Jurors.

[APPROVED DECEMBER 21, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section fourteen of said act, which reads as follows, to-wit.:

"Section 14. The Grand Jury shall have cognizance of felonies only, Sec. 14 recited. but on an indictment for an assault or an assault and battery, with an intent to commit a felony, the defendant may be convicted of a lesser offence," be amended so as to read as follows:

SEC. 14. The Grand Jury shall have cognizance of felonies and misdemeanors, except those misdemeanors where the fine can not exceed three dollars; and in an indictment for an assault or an assault and battery, with intent to commit a felony, the defendant may be convicted of a lesser offence. Jurisdiction of Grand Jury.

SEC. 2. The oath to be administered to every Grand Jury shall be, in substance, as follows: You do solemnly swear, in the presence of Almighty God, that you will diligently inquire, and true presentment make, of all violations of the criminal laws of this State, of which this court has jurisdiction; that you will not present any one through malice, hatred, or ill will, nor leave any one unpresented through fear, favor, or affection, or for any reward, or the promise or hope thereof, but in all your indictments, you will present the truth, the whole truth, and nothing but the truth; that you will not disclose any evidence given, or proceeding had, before the Grand Jury, so help you God. Form of oath to be administered to Grand Jury.

SEC. 3. All laws coming in conflict with the provisions of this act are hereby repealed; and there being an emergency for the immediate taking effect of this act, it is declared to be in force from and after its passage. Repealing clause and emergency.

## CHAPTER L.

AN ACT to amend section fourteen of an act entitled "An act to limit the grand jurors, and to point out the mode of their selection, defining their jurisdiction, and repealing all laws inconsistent therewith," approved March 4, 1852.

[APPROVED DECEMBER 20, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That section fourteen of an act entitled "an act to limit the number of grand jurors, and to point out the mode of their selection, defining their jurisdiction, and repealing all laws inconsistent therewith," approved March 2, 1852, which reads as follows, to-wit:

Sec. 14 recited.

"Section 14. The grand jury shall have cognizance of felonies only; but on an indictment for an assault and battery, with an intent to commit a felony, the defendant may be convicted of a ~~lesser~~ offense," shall be amended so as to read as follows, to-wit:

Jurisdiction of Grand Jury.

SEC. 14. The grand jury shall have cognizance of felonies and misdemeanors in the Circuit Court, except as otherwise provided by law; but on an indictment for an assault and battery with an intent to commit a felony, the defendant may be convicted of a lesser offence. And in the Criminal Circuit Court the grand jury shall have cognizance of all felonies and all misdemeanors, except such as are exclusively within the jurisdiction of justices of the peace, and the grand jury in the Circuit Court shall sit so long as business shall require it, and in the Criminal Circuit Court shall sit each month, and not more than ten days in each month.

Emergency.

SEC. 2. It is hereby declared that an emergency exists for the immediate taking effect of this act, and it shall be in force from and after its passage.



## CHAPTER LI.

AN ACT to amend the six hundred and fifty-first section of the act entitled "an act to revise and simplify and abridge the rules, practice, pleadings and forms in civil cases in the courts of this State; to abolish distinct forms of action at law, and to provide for the administration of justice in a uniform mode of pleadings and practice, without distinctions between law and equity," passed June 18th 1852.

[APPROVED DECEMBER 21, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section six hundred and fifty-one of an act entitled "an act to revise, simplify and abridge the rules, practice, pleadings and forms in civil cases in the courts of this State, to abolish distinct forms of action at law, and to provide for the administration of justice in a uniform mode of pleading and practice, without distinction between law and equity," passed June 18th, 1852, which is in the following words, to wit:

"SEC. 651. Any person having such lien, may enforce the same by filing his complaint in the Circuit Court or Court of Common Pleas of the county where the work was done or the materials furnished at any time within one year from the completion of the work, or furnishing the materials, or if a credit be given, from the expiration of the credit," be amended so as to read as follows, to wit:

SEC. 651. Any person having such lien, may enforce the same by filing his complaint in the Circuit Court, or Court of Common Pleas of the county where the work was done or materials furnished, at any time within one year from the completion of the work or furnishing the materials, or if a credit be given, from the expiration of the credit: and the court rendering judgment shall order the sale to be made, and the officers making the sale shall sell the property without any relief whatever from valuation or appraisement laws.

SEC. 2. An emergency is hereby declared to exist for the immediate taking effect of this act, and the same shall take effect and be in force from and after its passage.

## CHAPTER LII.

AN ACT to amend section seventy-seven of an act entitled "an act to revise, simplify and abridge the rules, practice and proceedings and forms in criminal actions in the courts of this State, approved June 17, 1852."

[APPROVED DECEMBER 20, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section seventy-seven of said act, which reads as follows, to wit:

Sec. 77 recited. "SEC. 77. When the objection is to the judge, in an action pending in the Court of Common Pleas, the action may be transferred to the Circuit Court of the county, and tried therein. When the objection is to the judge of the Circuit Court, any other circuit judge, or judge of the Supreme Court, may hold the court and try the cause;" be and the same is hereby amended to read as follows, to wit:

Section 77 as amended. When and where actions may be transferred. SEC. 77. When the objection is to the judge, in an action pending in the Court of Common Pleas, the action may be transferred to the Circuit Court of the county, and tried therein. When the objection is to the judge of the Circuit Court, any other circuit judge, or judge of the common pleas, may hold the court and try the cause.

Emergency. SEC. 2. Inasmuch as there is an emergency for the immediate taking effect of this act, the same shall take effect and be in force from and after its passage.

## CHAPTER LIII.

AN ACT entitled an act to amend the 406th section of an act entitled "an act to revise, simplify and abridge the rules, practice, pleadings and forms in civil cases in the courts of this State; to abolish distinct forms of action at law, and to provide for the administration of justice in a uniform mode of pleading and practice, without distinction between law and equity," approved June 18, 1852.

[APPROVED DECEMBER 20, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the 406th section of an act entitled "an act to revise, simplify and abridge the rules, practice, pleadings and forms in civil cases in the courts of

this State; to abolish distinct forms of action at law, and to provide for the administration of justice in a uniform mode of pleading and practice, without distinction between law and equity," approved June 18, 1852, which reads as follows, to-wit:

"Section 406. After the lapse of five years from the entry of judgment, an execution can be issued only on leave of court, upon motion, after ten days personal notice to the adverse party unless he be absent, or non-resident, or cannot be found when service of notice may be made by publication, as in an original action or in such other manner as the court shall direct; such leave shall not be given unless it be established by the oath of the party, or other satisfactory proof that the judgment or some part thereof remains unsatisfied and due," be and the same is hereby amended to read as follows, to-wit:

SEC. 406. After the lapse of five years from the entry of judgment an execution can be issued only on leave of court, upon motion, after ten days personal notice to the adverse party, unless he be absent or non-resident or cannot be found, when service of notice may be made by publication, as in an original action, or in such other manner as the court shall direct; such leave shall not be given, unless it be established by the oath of the party or other satisfactory proof, that the judgment or some part thereof remains unsatisfied and due: *Provided*, That any such judgment shall have remained without execution having issued thereon for the space of five years.

Section 406 as amended.  
Execution not to issue after lapse of 5 years from entry of judgment, unless by order of court on motion, &c.

Repealed

in 1867

SEC. 2. It is hereby declared that an emergency exists for the immediate taking effect of this act, and that the same shall be in force from and after its passage.

Emergency.

## CHAPTER LIV.

AN ACT to amend section three hundred and forty-nine of an act entitled "an act to revise, simplify and abridge the rules, practice, pleadings and forms in civil cases in the courts of this State; to abolish distinct forms of action at law, and to provide for the administration of justice in a uniform mode of pleading and practice, without distinction between law and equity," approved June 18th, 1852.

[APPROVED NOVEMBER 28, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the three hundred and forty-ninth section of the above entitled act, which reads as follows, to wit:

Sec. 349 recited.

"SEC. 349. All or any of the issues in the action, whether of fact or of law, or both, may be referred upon the written consent of the parties," be amended so as to read as follows, to wit:

Actions for divorce and for the nullification of marriage contracts not to be referred.

SEC. 349. All or any of the issues in the action, except in action for divorce and for the nullification of marriages, whether those issues be of fact or of law, or both, may be referred upon the written consent of both parties.

Emergency.

SEC. 2. It is hereby declared that an emergency exists for the immediate taking effect of this act, therefore it shall be in force from and after its passage.

## CHAPTER LV.

AN ACT to amend an amendment of an act entitled "An act in relation to witnesses, and to repeal section 288, of article 13, of the act entitled 'an act to revise, simplify, and abridge the rules, practice, pleadings, and forms in cases in the courts of this State; to abolish distinct forms of actions at law; and to provide for the administration of justice in a uniform mode of pleading and practice, without distinction between law and equity,' approved June 18, 1852; and to repeal all laws inconsistent therewith, and providing when the act shall take effect and be in force, which took effect and went into force March 17, 1861."

[APPROVED DECEMBER 21, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section three of an amended act of the above entitled act, which section reads as follows, to-wit.:

Sec. 3 recited.

"Section 3. Persons insane at the time of examination; children under ten years of age and incapable of properly understanding the facts about which they are examined; husband and wife, as to matters for or against each other, or as to communications made to each other during marriage; attorneys at law, as to confidential communications from a client, or advice given to such clients; physicians, as to any matters confided to them in the course of profession; clergymen, concerning any confessions made to them in the course of discipline enjoined by the church, shall not, in either case, be included in the second section of the act to which this is an amendment, or be competent witnesses, unless with the consent of the party making such confidential communications: *Provided*, That where a negro, Indian, or person excluded on account of mixed blood, is a party to a cause, his opponent shall be excluded; and *provided further*, that in all suits where an executor, administrator, or guardian is a party in a case where a judgment may be rendered either for or against the estate, represented by such executor, administrator, or guardian, neither party shall be allowed to testify as a witness, unless required by the opposite party, or by the court trying the cause, except in cases arising

upon contracts made with the executor, administrator, or guardian of such estate, and in cases where a party to a suit, pending in any court in this State, whose deposition has been taken in such suit, and is on file in such court, dies, and such suit is prosecuted by or against the executor or administrator of such deceased party, the opposite party shall be allowed to testify on the trial of the cause, and such deposition may be read in evidence by and on behalf of the representative of such deceased party; and *provided further*, that in all suits against heirs, founded on a contract with, or demand against, the ancestor, the object of which is to obtain title to, or possession of, land or other property of such ancestor, or to reach or affect the same in any way, neither party shall be allowed to testify as a witness, as to any matter which occurred prior to the death of such ancestor, unless required by the opposite party; and the assignor of the plaintiff in any such suit, where there has been an assignment of the cause of action, shall be deemed and held to be a party within this provision," be and the same is hereby amended so as to read as follows, to-wit:

SEC. 3. Persons insane at the time of examination; children under ten years of age, and incapable of properly understanding the facts about which they are examined; husband and wife as to matters for or against each other, or as to communications made to each other during marriage; attorneys at law, as to confidential communications from a client, or advice given to such clients; physicians, as to any matters confided to them in the course of their profession; clergymen, concerning any confessions made to them in the course of discipline enjoined by the church, shall not, in either case, be included in the section of the act to which this is an amendment, or be competent witnesses unless with the consent of the party making such confidential communication; *Provided*, That where a negro, Indian or person excluded on account of mixed blood is a party to a cause, his opponent shall be excluded; *And provided further*, That in all suits where an executor, administrator or guardian is a party in a case where a judgment may be rendered either for or against the estate represented by such executor, administrator or guardian, neither party shall be allowed to testify as a witness unless required by the opposite party, or by the court trying the cause, except in cases arising upon contracts made with the executor, administrator or guardian of such estate, and in cases where a party to a suit pending in any court in this State, whose deposition has been taken in such suit, and is on file in such court, dies, and such suit is prosecuted by or against the executor, or administrator of such deceased party, the opposite party shall be allowed to testify on the trial of the cause, and such deposition may be read in evidence by, and on behalf of the representative of such deceased party: *And provided further*, That in all suits by or against heirs, founded on a contract with or demand against the ancestor, the object of which is to

Section 3 as amended.  
Who incompetent as witnesses.

In case negro Indian, or person of mixed blood, is party to suit.  
In case executor, administrator, or guardian is party to suit.

In case of suit against heirs.

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obtain title to, or possession of land or other property of such ancestor, as to reach or affect the same in any way, neither party shall be allowed to testify as a witness as to any matter which occurred prior to the death of such ancestor, unless required by the opposite party; and the assignor of the plaintiff in any such suit where there has been an assignment of the cause of action shall be deemed and held to be a party within this provision.

Emergency.

SEC. 2. It is declared that an emergency exists for the immediate taking effect of this act; it is therefore declared to be in force from and after its passage.

## CHAPTER LVI.

AN ACT defining who shall be competent witnesses in any Court or judicial proceeding in this State, and to repeal all laws and parts of laws in conflict with the provisions of this act.

[APPROVED DECEMBER 20, 1865.]

Who are competent witnesses.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That all persons of competent age, without distinction as to color or blood and not otherwise by law rendered incompetent, *shall* be competent witnesses to testify in any proceeding or suit, civil or criminal, in any Court in this State: *Provided*, That no negro or mulatto who has come, or who shall hereafter, come into this State in violation of the Thirteenth Article of the Constitution of the State, shall, while said Article continues in force, be competent to testify as a witness in any case in which a white person shall be a party in interest.

Proviso.

Repealing clause.

SEC. 2. All laws and parts of laws now in force and in conflict with the provisions of this act, are hereby repealed.

Emergency.

SEC. 3. It is hereby declared that an emergency exists for the immediate taking effect of this act; it is therefore declared that this act shall take effect and be in force from and after its passage and publication in the *Indianapolis Journal and Herald*.

NOTE.—Published in the *Indianapolis Journal and Herald* December 25th, A. D., 1865.

## CHAPTER LVII.

AN ACT to repeal an act entitled "An act to establish Courts of Conciliation, to prescribe rules and proceedings therein, and compensation of judges thereof," approved June 11th, 1852.

[APPROVED NOVEMBER 30, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That an act entitled "An act to establish Courts of Conciliation, to prescribe rules and proceedings therein, and compensation of judges thereof," approved June 11th, 1852, be, and the same is hereby, repealed. Repealing clause.

SEC. 2. Whereas an emergency exists for the immediate taking effect of this act, therefore the same shall be in force from and after its passage. Emergency.

## CHAPTER LVIII.

AN ACT concerning the writ of Habeas Corpus.

[APPROVED DECEMBER 20, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section (716) seven hundred and sixteen of an act entitled "An act to revise, simplify and abridge the rules, practice, pleadings and forms in civil cases in the courts of this State; to abolish distinct forms of action at law, and to provide for the administration of justice in a uniform mode of pleading and practice, without distinction between law and equity," approved June 18, 1852, which reads as follows, to wit:

"SEC. [716.] Writs of Habeas Corpus may be granted by the Supreme Court, Circuit Court, or Court of Common Pleas, or by any Judge of either court, whether in term or vacation, and upon application, the writ shall be granted without delay," be and the same is hereby amended to read as follows, to wit: Sec. 716 recited.

SEC. 716. Writs of *habeas corpus* may be granted by the Circuit Court, or Court of Common Pleas, of the county in which the person applying therefor may be restrained of his or her liberty, or by the judge of either of Section 716 as amended. When writs of habeas corpus may be granted, and by what courts.

said courts, whether in term or vacation; or if said judges be absent from their circuits or districts, or by reason of sickness, or other cause, be unable or be incompetent to hear and determine the same, then by any such judge of any adjoining circuit or district, and upon application, the writ shall be granted without delay.

Article 42, chap. 1, R. S. 1853, as amended, to govern as far as applicable in such cases.

SEC. 2. The provisions of article forty-two (42) chapter 1, of part two (2) of the revised statutes of 1852, as amended by the foregoing section, shall govern in reference to writs of habeas corpus issued on the application of persons in custody, charged with crime, so far as the same may be applicable.

## CHAPTER LIX.

AN ACT to entitle attorneys to hold liens on judgments.

[APPROVED DECEMBER 20, 1865.]

Attorney entitled to lien on judgments for fees.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That any attorney practicing his profession in any court of record in this State, shall be entitled to hold a lien, for his fees, on any judgment rendered in favor of any person or persons employing as such attorney to obtain the same: *Provided*, That such attorney shall, at the time such judgment shall have been rendered, enter in writing, upon the docket or record wherein the same is recorded, his intention to hold a lien thereon, together with the amount of his claim.

Attorney shall enter in writing his intention to take lien at the time judgment is rendered.

## CHAPTER LX.

AN ACT to amend the twenty-second section of an act entitled "An act defining misdemeanors, and prescribing punishment therefor," approved June 14, 1852.

[APPROVED DECEMBER 19, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the twenty-second section of an act entitled "An act defining misdemeanors, and pre-



scribing punishment therefor," approved June 14, 1852, which reads as follows, to-wit.:

[“Section 22.] Every person who shall be guilty of notorious lewdness, or other public indecency, upon conviction, shall be fined not exceeding one hundred dollars, and imprisoned not exceeding three months,” be and the same is hereby amended to read as follows, to-wit.:

Sec. 22 recited.

[SEC. 22.] Every person who shall be guilty of notorious lewdness, or who shall, in any public place, make any uncovered and indecent exposure of his or their person, upon conviction thereof, shall be fined in any sum not less than ten nor more than one hundred dollars, to which may be added imprisonment for any term not exceeding three months.

Section 22 as amended. Lewdness and fine for.

## CHAPTER LXI.

AN ACT defining certain misdemeanors, and prescribing punishment therefor.

[APPROVED DECEMBER 2, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* An assault is an unlawful attempt, coupled with a present ability, to commit a violent injury on the person of another, and every person who shall perpetrate an assault shall, on conviction, be fined in any sum not exceeding fifty dollars.

Assault defined.

SEC. 2. Every person who shall, by words, signs or gestures, provoke, or attempt to provoke another to commit an assault, assault and battery, or other breach of the peace, shall, on conviction, be fined in any sum not exceeding twenty dollars.

Penalty for provoking, assault, &c.

SEC. 3. That section one of the act entitled “an act prescribing certain misdemeanors punishable only by justices of the peace,” approved June 7, 1852, be and the same is hereby repealed.

Repealing clause.

## CHAPTER LXII.

AN ACT to amend section two of an act entitled "An act prescribing the powers and duties of justices of the peace in State prosecutions," approved May 29, 1852, so as to authorize the service of a warrant throughout the State.

[APPROVED DECEMBER 2, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That section two of said act, which reads as follows, to-wit.:

Sec. 2 recited.

"Section 2. Any justice shall, on complaint made on oath before him, charging any person with the commission of any crime or misdemeanor, issue his warrant for the arrest of such person, and cause him to be brought forthwith before him for trial or examination," be and the same is hereby amended to read as follows, to-wit.:

Section 2 as amended.  
When Justice to issue his warrant.

Warrant may be served throughout the county. Warrant may be served by constable or sheriff of any county in the State. When certificate of the county is attached, stating that the Justice is duly commissioned, &c.

Emergency.

SEC. 2. Any justice shall, on complaint made on oath before him, charging any person with the commission of any crime or misdemeanor, issue his warrant for the arrest of such person, and cause him to be brought forthwith before him for trial or examination, and such warrant may be served throughout the county, and where the defendant has escaped from the county in which the offense was committed, upon attaching a certificate of the clerk of the county, setting forth that the justice signing the warrant is duly commissioned and qualified as such, and that his signature is genuine, the same may be served by any constable or sheriff in any county in which the defendant may be found.

SEC. 2. Inasmuch as there is an emergency for the immediate taking effect of this act, the same shall take effect and be in force from and after its passage.

## CHAPTER LXIII.

AN ACT to amend sections nine and ten of an act entitled "An act prescribing the powers and duties of justices of the peace in State prosecutions."

[APPROVED DECEMBER 20, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That sections nine and ten of an act

entitled: "An act prescribing the powers and duties of justices of the peace in State prosecutions," which reads as follows, to-wit:

"Section 9. When the offence for which a party is held to bail is a felony, he shall be recognized to appear at the next term of the Circuit Court of the county; if the offence is a misdemeanor, he shall be recognized to appear at the next term of the Court of Common Pleas of the county." Sec. 9 recited.

"Section 10. Any prisoner against whom any punishment is adjudged, may appeal to the Court of Common Pleas of the county, at any time within thirty days after trial, on entering into recognizance for his appearance at the next term of such court, as in other cases, and such appeal shall stay all proceedings," shall be amended so as to read as follows, to-wit: Sec. 10 recited.

Sec. 9. When the offence for which a party is held to bail is a felony, he shall be recognized to appear at the next term of the Circuit Court of the county; if the offence is a misdemeanor, he shall be recognized to appear at the next term of the Court of Common Pleas of the county; and if there be a Criminal Circuit Court therein, he shall be recognized to appear at once, both for felonies and misdemeanors, in such Circuit Court. In what cases and to what courts parties to enter into recognizance to appear in.

SEC. 10. Any prisoner against whom any punishment is adjudged, may appeal to the Court of Common Pleas of the county, at any time within thirty days next after the trial, on entering into a recognizance to appear at the next term of such court, as in other cases; and such appeal shall stay all proceedings, and in case there be a Criminal Circuit Court in such county, the appeal shall be taken to it within such thirty days on entering into recognizance to appear forthwith in said Circuit Court as in other cases, and such appeal shall stay all proceedings. Prisoner may appeal within thirty days.

Sec. 2. It is hereby declared that an emergency exists for the immediate taking effect of this act, and it shall be in force from and after its passage. Emergency.

## CHAPTER LXIV.

AN ACT to legalize the acknowledgments of all deeds, mortgages and other instruments required to be recorded, taken and certified by notaries public, who took and certified such acknowledgments after the expiration of their commissions.

[APPROVED NOVEMBER 30, 1865.]

Acknowledgments of deeds and other instruments taken before Notaries Public, whose commissions have expired, legalized, &c.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the acknowledgments of all deeds of conveyance, mortgages and all other instruments required to be recorded, taken and certified by any notary public of this State whose commissions had expired at the time they were so taken and certified, be and the same are hereby legalized, and the recording of such deeds, mortgages and other instruments, in pursuance thereof, are hereby declared to be valid and effectual in law, to all intents and purposes.

Emergency declared.

SEC. 2. An emergency is hereby declared to exist, requiring this act should take effect immediately, and it is therefore enacted that this act be in force from and after its passage.

## CHAPTER LXV.

AN ACT to cure defective acknowledgments of deeds in certain cases.

[APPROVED DECEMBER 20, 1865.]

Acknowledgments where wife has joined in conveyance &c.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That no deed of conveyance, executed at any time heretofore by husband and wife, shall be void or inoperative as to the wife, by reason of her not having been examined by the officer who took her acknowledgment, privately, or separate and apart from her husband, or out of his hearing, or by reason of the certificate of acknowledgment not stating that the contents and purport of such deed, or either, were made known to her; but such deed shall have like force and effect as if such facts had been by such officer formally certified.

## CHAPTER LXVI.

AN ACT to authorize manufacturing companies to erect a dam across the St. Joseph River, in Elkhart county.

[APPROVED, DECEMBER 19, 1865,]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That any manufacturing company now organized, or hereafter to be organized, under and in pursuance of an act entitled "an act for the incorporation of manufacturing and mining companies, and companies for mechanical, chemical and building purposes," approved May 20th, 1852, and the subsequent amendments thereto, may construct a dam across the St. Joseph river, in Elkhart county, for the purpose of creating motive power to carry on mechanical and manufacturing business, provided such company shall first procure the title to the land upon which such dam is to be built, and the land that may be overflowed by reason of the erection of such dam, or shall first procure of the owners of such land the right to overflow the same.

Manufacturing companies may construct dams across St. Joseph river, in Elkhart county, after procuring title to land, &c.

SEC. 2. Whereas an emergency exists for the immediate taking effect of this act, the same shall be in force from and after its passage.

Emergency.

## CHAPTER LXVII.

AN ACT giving the consent of the State of Indiana to, and authorizing the digging or constructing of a ditch or canal from the Little Calumet river to the Grand Calumet river, both in Lake county, in this State, and requiring the Attorney General to defend such suits or actions at law as may be brought against the parties who may be prosecuting said works.

[APPROVED DECEMBER 20, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That one or more persons acting in conformity to, and in accordance with, the laws of this State may, and they are hereby authorized to dig or construct a ditch or canal from the Little Calumet river to the Grand Calumet river, both in Lake county, in this

Ditch may be dug to drain land near the Calumet rivers, &c.

Attorney General to defend suits.

In relation to removal of feeder dam across Calumet river in the State of Illinois.

Emergency.

State, for the purpose of draining the wet and overflowed lands adjacent to said rivers, and in case the trustees of the Illinois and Michigan canal or any other parties claiming an interest in the Calumet feeder dam, or in said canal, under the State of Illinois, should endeavor to prevent by suits or actions at law such persons or association from digging or constructing said ditch or canal, then the Attorney General shall, and he is authorized and required to defend the same on behalf of the State, and for the expenses of the judicial proceedings in this case, the money appropriated by an act entitled "an act to provide for the prosecution of the necessary judicial proceedings to procure the removal of the feeder dam erected across the Calumet river in the State of Illinois and for the payment of such proceedings," approved March 9, 1861, may be taken and used, but no money shall be drawn from the treasury for the payment of such expenses, except in such manner as is provided in section 5 of the act above recited.

SEC. 2. It being necessary that the work should be commenced as soon as practicable, therefore, it is declared that an emergency exists, and this act shall be in force from and after its passage.

## CHAPTER LXVIII.

AN ACT to regulate swing bridges across the several canals, feeders, rivers, and streams in this State, and prescribing a penalty for injuring the same, or interrupting the free passage thereof, and matters properly connected therewith, and declaring an emergency.

[APPROVED DECEMBER 21, 1865.]

Free use of bridges across canals, &c., not to be interfered with.

Proviso.

Penalty for leaving swing bridges open.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That it shall be unlawful for any person or persons to open or move any swing bridge located across any canal, feeder, river, or stream within the limits of this State, so as to prevent, in any manner, the free use and passage across the same: *Provided, however*, The foregoing provisions shall not apply to any person or persons who shall open any such bridge for the purpose of passing the same with any water craft, boat, raft, or other floating substance.

SEC. 2. That every person who shall open or move any swing bridge mentioned in the foregoing section, either with or without the purpose of passing the same with any

water craft, boat, raft, or other floating substance, and shall fail or neglect to shut and replace the same so as to afford a free passage thereon as soon as such water craft, boat, raft, or other floating substance, in case of the passage thereof, shall have passed such bridge, without unnecessary delay, shall be fined in any sum not exceeding twenty-five dollars for every such offense.

SEC. 3. That every person who shall purposely, carelessly, or negligently run any water craft, boat, raft, log or other floating substance against any swing bridge mentioned in this act so as in any manner to injure the same, or for the purpose of forcing the same open, shall be fined in any sum not exceeding twenty-five dollars for every such offense.

Penalty for running water craft, boat, &c. against swing bridges.

SEC. 4. Whereas an emergency exists for the immediate taking effect of this act, therefore the same is hereby declared in force from and after its passage.

Emergency.

## CHAPTER LXIX.

AN ACT to amend section 5 of an act entitled "An act to authorize the construction of levees and drains," approved June 12th, 1852.

[APPROVED DECEMBER 20, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section five of an act entitled "An act to authorize the construction of levees and drains," approved June 12th, 1852, which reads as follows, to wit:

"Section 5. The company shall cause their articles of association to be recorded in the recorder's office of the county or counties in which the contemplated work is situated, and thereafter such association shall be a body politic and corporate by the name and style so adopted, with all the rights, incidents, and liabilities of bodies corporate, and other persons interested in the work, may, from time to time, become members of the association by signing the articles; and the existence of such corporation shall be judicially taken notice of in the courts of the county or counties in which the articles are so recorded, without specially pleading the same," be so amended as to read as follows, to wit:

Sec. 5 recited.

SEC. 2. The company shall cause their articles of association to be recorded in the recorder's office of the county or counties in which the contemplated work is situated, and thereafter such association shall be a body politic and corporate by the name and style so adopted, with the rights, incidents, and liabilities of bodies corporate, and shall have

Section 2 as amended  
Company to file articles of association in recorder's office to be a body politic, &c.

power to buy, hold, and convey any lands benefitted or to be benefitted by draining or reclaiming as provided in this act; and other persons interested in the work, may, from time to time, become members of the association by signing the articles; and the existence of such corporation shall be judicially taken notice of in the courts of the county or counties in which the articles are so recorded without specially pleading the same.

Emergency declared.

SEC. 3. It is hereby declared that an emergency exists for the immediate taking effect of this act, and that the same shall be in force from and after its passage.

## CHAPTER LXX.

AN ACT to legalize the appraisement of real estate made under the provisions of the act entitled "An act to provide for the appraisement of the real estate, and prescribing the duties of officers in relation thereto," approved December 21, A. D. 1858, and the assessment and levy of taxes made, and hereafter to be made, on such appraisement.

[APPROVED DECEMBER 14, 1865.]

Appraisement made under act approved Dec. 21, 1858, not invalid or void on account of notice not being served to owner of real estate, &c.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the appraisement of the real estate of this State, required to be made in the year eighteen hundred and sixty-four, by the provisions of the act entitled "An act to provide for the appraisement of the real estate, and prescribing the duties of officers in relation thereto," approved December 21, 1858, shall not be taken or held to be invalid or void on account of the failure of any appraiser to give to the owner of such real estate, his, her, or their agent or representative, notice or information of the amount at which his, her, or their real estate has been appraised, and of the time of the meeting of the board of equalization of such county; but such appraisement shall be taken and held to be valid and effectual, though no such notice or information may have been given by such appraiser, and shall have the same effect as though such notice had been given in all respects according to the requirements of the law; and all assessments of taxes levied, or hereafter to be levied, upon real estate, upon the basis of such appraisement since the making thereof, are hereby declared to be legal and valid.

Emergency declared.

SEC. 2. Inasmuch as the omission of appraisers to give the notice required by law may embarrass the proper



authorities in the collection of taxes, it is hereby declared that an emergency exists for the immediate taking effect of this act, and it shall be in force from and after its passage.

## CHAPTER LXXI.

AN ACT to render uniform the assessments of personal property in the several townships of the different counties.

[APPROVED DECEMBER 19, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That it shall be the duty of the county auditors of the several counties of this State, on or before the first day of January in each year, to notify the township assessors of their respective counties to meet at the auditor's office for the purpose of agreeing upon a uniform rate of assessments for the county.

County Auditor to notify Township Assessors to meet at his office.

SEC. 2. A majority of the township assessors, at such meeting, shall constitute a quorum for the transaction of business.

Majority of Township Assessors to constitute a quorum.

SEC. 3. The county auditor shall be chairman of said meeting, and they shall choose one of their number to act as secretary.

County Auditor to be chairman.

SEC. 4. Such meeting shall make out, as far as practicable, a list of personal property, and attach thereto a uniform rate of assessments according to their relative values in the several townships and localities; and a majority of said assessors having signed said list, the secretary shall make out and cause to be presented to each of said assessors a copy thereof; and said assessors shall be governed, as far as practicable, by said list of prices.

Such meeting to make out list of personal property &c. Rate of assessment.

SEC. 5. The county auditors and assessors shall be allowed for said service the sum of three dollars each, to be paid out of the county treasury.

Fees of Auditor and Assessors.

## CHAPTER LXXII.

AN ACT fixing the per diem and mileage of members of the General Assembly, secretaries, clerks, doorkeepers, and other employees thereof.

[APPROVED DECEMBER 20, 1865.]

Pay and mileage of members of General Assembly.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the pay of the members of the General Assembly, shall be five dollars per day, while in actual attendance, or absent by leave, or on business of the General Assembly, or unable to attend from sickness, and five dollars for every twenty-five miles they may travel from their usual place of residence, to the seat of Government and back, by the most direct usual traveled route.

Pay of Secretary of Senate, Clerk of House, and other officers and appointees of General Assembly.

SEC. 2. The pay of the principal secretary of the Senate, and the principal clerk of the House, shall be five dollars per day. The pay of the assistant secretary and doorkeeper of the Senate, assistant clerk and doorkeeper of the House, and the appointees of the principal and assistant secretaries of the Senate, and the principal and assistant clerks of the House, shall be five dollars each per day, for every day actually employed. The pay of the appointees of the doorkeeper shall be five dollars per day, for every day of actual service, and the pay of pages shall be two dollars per day for the extra session of 1865.

Clerk of Committee of Ways and Means to receive five dollars per day. Clerks of other committees four dollars per day.

President of Senate and Speaker of House be entitled to one clerk each. Pay of such clerk.

Pay of folding clerks.

Repealing clause.

Emergency declared.

SEC. 3. The clerk of the Committee of Ways and Means of the House, shall receive for every day of actual service, five dollars, and clerks of other committees when appointed by the consent of the respective Houses, shall receive four dollars per day for the time actually employed. The President of the Senate and the Speaker of the House, shall each be entitled to one clerk to be appointed by themselves, if they deem such clerk necessary; and the pay of such clerks shall be five dollars per day each from the date of their appointment, and during their continuance in such employment. The folding clerks employed in either House shall be entitled to four dollars per day for the time actually employed.

SEC. 4. All laws and parts of laws coming in conflict with the provisions of this act are hereby repealed.

SEC. 5. It is declared that an emergency exists for the immediate taking effect of this act, therefore, the same shall be in force from and after its passage.

## CHAPTER LXXIII.

AN ACT authorizing boards of county commissioners, in this State, to make donations and receive subscriptions for the purpose of erecting a monument to the memory of those from their several counties who have lost their lives, and who may lose their lives, in the present war for the restoration of the Union.

[APPROVED DECEMBER 20, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the several boards of county commissioners of this State be, and they are hereby authorized to procure a proper book for the purpose of receiving subscriptions and donations from any person or persons who may desire to contribute for the erection of a monument to those who have or may lose their lives in the present war, from their own counties; said subscription book shall be properly preserved by the several county auditors, and shall be free to the inspection of any one who has lost friends or relations in the present war for the suppression of the rebellion.

County Commissioners to receive subscriptions and donations for erecting monument.

Subscription Book to be preserved by county Auditor.

SEC. 2. The said several boards of county commissioners, may make such allowances or appropriations out of their several county treasuries as they may think proper for the purposes named in the first section of this act.

Boards of County Commissioners may make allowances, &c.

SEC. 3. Whenever the funds shall be deemed sufficient as specified in the first and second sections of this act, the said boards of commissioners shall proceed to select and purchase, if not donated, a suitable spot of ground at or near the county seat of each county, whereon shall be erected a monument to the memory of the soldiers who have lost their lives in putting down the rebellion, whereon their names shall be inscribed with the name of the battle or place where they fell.

Commissioners to select site for monument.

SEC. 4. The grounds or monuments shall be under the care and control of the said several boards of county commissioners, who shall see to the proper preservation of the same.

Grounds to be under care of County Commissioners.

SEC. 5. The funds so paid or donated for the purposes aforesaid, shall be paid to the proper county treasurers, for which they shall be charged by the county auditors, and the same shall be styled "the soldier's monument fund."

Funds donated to be paid to County Treasurer, &c.

## CHAPTER LXXIV.

AN ACT to amend the 5th and 6th sections of an act regulating interest on money, and to repeal an act entitled "An act concerning interest on money, approved May 27, 1852, the fifty-first section of the act defining misdemeanors and prescribing punishment therefor, approved June 14, 1852, and all other laws and parts of laws in conflict with this act," approved March 7, 1861.

[APPROVED DECEMBER 19, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section 5th of the above recited act, which is in the following words, to wit:

Sec. 5 recited.

"SEC. 5. If a greater rate of interest than is hereinbefore allowed shall be contracted for, or received, or reserved, the contract shall not therefore be void, but if, in any action on such contract, proof be made that interest at a rate exceeding six dollars a year on one hundred dollars, has been directly or indirectly contracted for, or taken, or reserved, the plaintiff shall recover only his principal with six per cent. interest, and he shall also recover costs, and if a greater rate of interest than six dollars a year for one hundred dollars shall have been paid thereon, whether in advance or not, judgment shall be rendered only for the amount of principal, deducting the excess of interest thus paid, at the time paid," be amended to read as follows:

Section 5 as amended.  
When a greater rate of interest than hereinbefore allowed is contracted for, &c.

SEC. 5. If a greater rate of interest than is hereinbefore allowed shall be contracted for, the contract shall not therefore be void, but if, in any action on such contract, proof be made that interest at a rate exceeding six dollars a year on one hundred dollars has been directly or indirectly contracted for, the plaintiff shall recover only his principal with six per cent. interest, and he shall also recover costs, but that in all cases in which money or any other thing of value shall have been voluntarily paid as interest for the loan, use, or for usance of money, the same shall not be recovered back, either directly or by any of setoff, or counter claim or payment.

Where money or other thing of value has been voluntarily paid for use of money, the same not to be recovered back.

SEC. 2. That section 6 of the above recited act, which reads as follows, to wit:

Sec. 6 recited.

"SEC. 6. If, in any action on any contract in which illegal interest shall have been directly or indirectly contracted for, or taken, or reserved, the defendant shall have, previous to the commencement of the suit, tendered to the plaintiff his principal with legal interest, or if illegal interest shall have been paid, the principal with legal interest, deducting the illegal interest paid, the defendant shall recover costs, and the plaintiff shall recover only the amount tendered," be amended to read as follows:

SEC. 6. If, in any action on any contract in which illegal interest shall have been directly or indirectly contracted for, the defendant shall have, previous to the commencement of the suit, tendered to the plaintiff his principal with legal interest, the defendant shall recover costs, and the plaintiff shall recover only the amount tendered.

Where illegal interest has been contracted for, defendant may tender plaintiff principal with legal interest and recover costs.

## CHAPTER LXXV.

AN ACT to amend an act entitled "An act to fix the amount of the salary of the State Librarian, and repealing all former laws conflicting therewith, and to dispense with an Assistant Librarian and Clerk," approved March 4, 1858, and also increasing the powers and duties of the State Librarian.

[APPROVED DECEMBER 20, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section 1, of an act entitled "An act to fix the amount of the salary of the State Librarian, and repealing all former laws conflicting therewith, and to dispense with an Assistant Librarian and Clerk," which reads as follows, to-wit:

Section 1. *Be it enacted by the General Assembly of the State of Indiana*, That the salary of the State Librarian shall be eight hundred dollars per annum, payable quarterly out of the State Treasury; nor shall any extra amount be paid for an Assistant Librarian or Clerk," be amended so as to read as follows, to-wit:

Section 1 recited.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the salary of the State Librarian shall be twelve hundred dollars per annum, payable out of the State Treasury; and there shall not be any extra amount for an Assistant Librarian or Clerk.

Section 1 as amended. Salary of State Librarian.

SEC. 2. That there shall be and is hereby allowed to the State Librarian, to be paid out of the State Treasury, upon his own order, the sum of two hundred dollars for services during the year 1865, in addition to his salary as now fixed by law.

An additional allowance for the year 1865.

SEC. 3. That the Librarian shall employ the fireman in charge of the furnace and wood-yard at rates paid those employed in similar occupations, and that the said Librarian shall make all purchases of fuel and other articles prior to and during the session of the General Assembly that may be necessary for the use of the same, and that the Auditor of State be and is hereby authorized to draw

Librarian shall employ fireman and purchase fuel, &c.

his warrant upon the Treasurer of State for the payment of such employees on the order of said Librarian.

Emergency.

SEC. 4. That whereas the salary of the State Librarian is an inadequate compensation for the services rendered, as now fixed by law, an emergency is declared to exist for the immediate taking effect of this act; the same is declared to be in force from and after its passage.

## CHAPTER LXXVI.

AN ACT to provide for the acknowledgment of the execution of official bonds and to declare the effect and obligation of such bonds as between the obligors and the State.

[APPROVED DECEMBER 21, 1865.]

Official bonds of public officers to be acknowledged by principal and sureties.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That hereafter no official bond of any State, county, township, or other public officer, shall be accepted or approved until the execution thereof shall have been duly acknowledged before some officer authorized to take the acknowledgment of deeds, by the principal and sureties executing the same, said acknowledgment to be duly certified on the bond by the officer taking the same, as in other cases.

Sureties to bear same relation as principal to the State.

SEC. 2. The sureties in any official bond taken, and acknowledged as contemplated in the foregoing section, shall, as between such sureties and the State, be deemed and taken to be principals, and it shall not be competent for any surety in such bond to set up as a defense to an action brought for a breach of the condition thereof any matter which would not be available as a defense to the principal in such bond.

## CHAPTER LXXVII.

AN ACT to legalize sales by guardians under orders defective in not prescribing notice.

[APPROVED DECEMBER 20, 1865.]

WHEREAS, it has been represented to this General Assembly Preamble. that some of the Courts of Common Pleas of the State of Indiana, in the earlier years of their administration, have made orders for the sale, by guardians, of the real estate of their wards, without providing in such order for "reasonable notice of such sale," as required by section nineteen of an act of the General Assembly of the State of Indiana, touching the relation of guardian and ward, approved June 9th, 1852, and it also being represented that numerous sales, under such orders, have been made in good faith and for full value, the titles arising from which are, from such defective orders, liable to be called in question; therefore,

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That all sales so made by guardians, Sales made by guardians under certain defective orders legalized. under such defective orders, in good faith, no fraud intervening, and for the full appraised value of the said real estate so sold, are hereby confirmed and legalized, and all conveyances made in conformity thereto are declared to be as valid in law and equity as if such notice had been prescribed and given.

SEC. 2. For the reasons set forth in the preamble to this Emergency. act, it is hereby declared that an emergency exists for its taking effect immediately, and the same shall be in force from and after its passage.

## CHAPTER LXXVIII.

AN ACT to protect lawful public notices, and prescribing a penalty for injuries thereto.

[APPROVED DECEMBER 20, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That any person who shall wilfully Penalty for tearing down, destroying, &c., advertisements,

handbills, or  
other public no-  
tices.

or maliciously tear down, remove, destroy or deface any legal advertisement, handbill, or other public notice, lawfully posted up in any place not belonging to nor occupied by such person, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined in any sum not exceeding ten dollars.

## CHAPTER LXXIX.

AN ACT for the relief of Isaac D. Armstrong, treasurer of Clinton county, in the State of Indiana.

Preamble.

**WHEREAS**, It has been shown to the General Assembly by competent and sufficient evidence, that on the night of the 17th day of February, 1865, the treasurer's office of Clinton County, in the State of Indiana, was feloniously entered, the iron safe opened, and a large sum of money stolen therefrom, of which fifteen hundred and two (\$1,502) dollars was revenue due the State of Indiana, collected by the said Isaac D. Armstrong, for the year 1864, and delinquent taxes for former years; and, **WHEREAS**, it further appearing that said loss occurred without the acquiescence, negligence or fault of said Isaac D. Armstrong, treasurer as aforesaid, therefore,

Isaac D. Arm-  
strong, treas-  
urer of Clinton  
county, amount  
relieved from  
paying.

**SECTION 1.** *Be it enacted by the General Assembly of the State of Indiana*, That Isaac D. Armstrong, treasurer of Clinton County, be and the same is hereby relieved and discharged from the payment of the said sum of fifteen hundred and two dollars, received by him as treasurer of said county of Clinton, due the State of Indiana, as a part of the revenue thereof, and due the funds as follows: State, \$998 50; Sinking Fund, \$503 50; feloniously taken from the county safe as aforesaid.

Emergency.

**SEC. 2.** It is further declared that an emergency exists for the immediate taking effect of this act, and that the same is in force from and after its passage.

**NOTE.**—The foregoing act was received for the approval of the Governor on the 20th day of December, A. D. 1865.



## CHAPTER LXXX.

AN ACT to amend section eleven of an act entitled "An act concerning county prisons," approved May 27th, 1852.

[APPROVED DECEMBER 2, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That section eleven of the above entitled act, which reads as follows, to-wit:

"Section 11. When there is no sufficient prison in any county wherein any criminal offense shall have been committed, any judge of the Circuit or Common Pleas Court of such county, upon application of the sheriff, may order any person charged with a criminal offense, and ordered to be committed to prison, to be sent to the jail of the county nearest having a sufficient jail; and the sheriff of such nearest county shall, on exhibit of such judge's order, receive and keep in custody in the jail of his county the prisoner ordered to be committed as aforesaid, at the expense of the county from which such prisoner was sent; and the said sheriff shall, upon the order of the Circuit Court, or a judge of the Court of Common Pleas, re-deliver such prisoner when demanded," be and the same is hereby amended so as to read as follows, to-wit:

SEC. 11. When there is no sufficient prison in any county wherein any criminal offense shall have been committed, any judge of the Circuit or Common Pleas Court of such county, upon application of such sheriff, may order any person charged with a criminal offense and ordered to be committed to prison, or any person convicted of a criminal offense and temporarily ordered to be imprisoned in the county prison, or any person convicted of a criminal offense and sentenced to imprisonment in the county prison, to be sent to the jail of the county nearest having a sufficient jail; and the sheriff of such nearest county shall, on exhibit of such judge's order, receive and keep in custody, in the jail of his county, the prisoner ordered to be committed as aforesaid, at the expense of the county from which such prisoner was sent; and the said sheriff shall, upon the order of the Circuit Court, or judge of the Court of Common Pleas of the county from which such prisoner was sent, re-deliver such prisoner when demanded.

Sec. 11 recited.

Section 11 as amended. When prisoner of one county may be imprisoned in the jail of another co.

Prisoner to be kept in custody by sheriff of co. to which he is sent. Expenses to be paid by county from which prisoner was sent.

SEC. 2. An emergency is hereby declared for the immediate taking effect of this act; it shall, therefore, be in force from and after its passage.

Emergency.

## CHAPTER LXXXI.

AN ACT to amend section 15 of an act entitled "An act concerning inclosures, trespassing animals, and partition fences," approved June 4, 1852.

[APPROVED DECEMBER 19, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That section 15 of the above recited act which reads as follows, to-wit:

Sec. 15 recited.

"Section 15. 'Except when otherwise specially agreed, partition fences dividing lands occupied on both sides, shall be maintained throughout the year, equally by both parties,' be and the same is hereby amended so as to read as follows, to-wit:

Section 15 as amended.  
Partition fences, what are lawful and how maintained.

SEC. 15. A lawful partition fence shall in all cases be such as to enclose and restrain sheep, unless by mutual consent of the parties interested, they agree to build a fence only to restrain or enclose horses, mules or cattle; except when otherwise specially agreed, partition fences dividing lands, occupied on both sides, shall be maintained throughout the year, equally by both parties.

## CHAPTER LXXXII.

AN ACT to authorize County Auditors to issue fee bills for the collection of costs accrued before Boards of County Commissioners.

[APPROVED DECEMBER 20, 1865.]

When county auditor shall issue fee-bill for costs.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That in all cases tried or heard before Boards of County Commissioners, in which costs are adjudged against any party, it shall be the duty of the County Auditor, when ordered by the Board of County Commissioners, or by any person interested in such costs, to issue fee bills, directed to the Sheriff of his county, to enforce the collection of any such costs, which fee bills shall in all other respects be governed by the laws in force for the regulation of fee bills issued by the clerks of the Circuit Courts.

## CHAPTER LXXXIII.

AN ACT to repeal sections forty-three and forty-four of an act entitled "An act prescribing who may make a will, the effect thereof, what may be devised, regulating the revocation, admission to probate, and contest thereof," approved May 31st, 1852.

[APPROVED DECEMBER 21, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That sections forty-three and forty-four of an act entitled "An act prescribing who may make a will, the effect thereof, what may be devised, regulating the revocation, admission to probate, and contest thereof," be and the same are hereby repealed. Repealing clause.

SEC. 2. Whereas an emergency exists for the immediate taking effect of this act, therefore the same shall take effect and be in force from and after its passage. Emergency.

## CHAPTER LXXXIV.

AN ACT to provide for the making and authentication of transcripts from the records of the recorder's office in certain cases, and for the admissibility in evidence of the same, and certified copies of the deeds and mortgages contained therein.

[APPROVED DECEMBER 2, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That in all cases where there has heretofore been, or may hereafter be, a change of county boundary, by which territory lying in one county is attached to another, it shall be the duty of the board of county commissioners of the county to which said territory has been or may be attached to procure a suitable book or books, and to cause to be copied therein from the records of the recorder's office of said other county, all deeds and mortgages of real estate within said territory that shall have been recorded before the change of boundary aforesaid. When territory is annexed, Co<sup>l</sup> Commissioners to have copies of deeds to land in such territory made out, &c.

SEC. 2. And in all cases where such record books made in pursuance of this act, or have heretofore been ordered by such county board, shall be deposited in the office of the recorder of such county, and when it is duly certified under, Certified copies of record to be admissible as evidence.

hand and official seal of the recorder from the records of whose office it shall have been copied that the same is a true, full, and perfect copy of such deeds and mortgages as they appear on record in his office, such book or books, or a duly certified transcript of any of the deeds or mortgages therefrom, shall be admitted in evidence in the courts of this State with the like force and effect as the original record.

## CHAPTER LXXXV.

AN ACT authorizing married women under the age of twenty-one years to join with their husbands in the conveyance of real estate in certain cases.

[APPROVED DECEMBER 20, 1865.]

Wife, under age of 21 years, may join with husband when he is of the age of 21 years, in conveyance of his real estate.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That any married woman under the age of twenty-one years, whose husband is of the age of twenty-one years, may join with her husband in any instrument for the conveyance of the real estate of such husband, under such regulations as are prescribed by law in such cases for married women of the age of twenty-one years, and such conveyance of such infant married woman shall, in all respects, be as valid as if she were of full age.

Repealing clause.

SEC. 2. All laws and parts of laws inconsistent with this act are hereby repealed.

## CHAPTER LXXXVI.

AN ACT to legalize the official acts of certain officers therein named, and the acts of their deputies, as such, while the principals were performing military service in the army of the United States.

[APPROVED DECEMBER 20, 1865.]

Official acts of county officers performed by deputies while said officers were serving in the army of the U. S. for putting

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the official acts of any clerk of any Circuit or Common Pleas Court, and the official acts of any sheriff, auditor, treasurer, surveyor, or recorder, of any county in the State of Indiana, that may have been

performed by any deputy of any such officer, during the time that the principal was serving in the army of the United States as a commissioned or non-commissioned officer, or private, in the war to put down the late rebellion against the United States, shall be held legal and valid as if the same had been performed by the principal himself.

down the late rebellion to be held to be legal.

SEC. 2. No official act performed by any clerk of any Circuit or Common Pleas Court, or by any sheriff, auditor, treasurer, surveyor, or recorder, of any county, who accepted a commission as an officer in the army of the United States, during the late rebellion, shall, for that reason, be held void, but the same is hereby declared legal and valid, as if such commission had never been accepted.

Official acts of county officers not to be void on account of their having accepted commissions as officers in said service.

SEC. 3. There being no law in force upon this subject, it is deemed that an emergency exists for the immediate taking effect of this act, it is, therefore, declared to be in force from and after its passage.

Emergency.

## CHAPTER LXXXVII.

AN ACT to enable any child heretofore adopted or which may hereafter be adopted by any person under the laws of any State of the United States to take and hold real estate in this State as if the child had been adopted under the laws and within the State of Indiana.

[APPROVED DECEMBER 21, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That wherever any child may have heretofore been adopted or may hereafter be adopted by any person in any other State of the United States, under and pursuant to the laws in force in the State where such adoption shall be made, the same shall upon filing the record thereof with the clerk of the Court of Common Pleas of any county within this State, and having the same entered upon the order book of said court in open session thereof, have the same force and effect, and such child so adopted shall have the same rights and be capable of taking property situate within this State, by inheritance, upon the death of the person adopting, whether before or after the passage of this act, as though such child had been adopted within and pursuant to the laws of the State of Indiana.

Child adopted without this State may inherit property in this State upon filing record thereof, &c.

SEC. 2. Whereas, an emergency exists for the immediate taking effect of this act, it is therefore, declared that the same shall take effect and be in force from and after its passage.

Emergency.

## CHAPTER LXXXVIII

AN ACT to prevent unauthorized printing at the expense of the State.

[APPROVED DECEMBER 20, 1865.]

Public printing when to be ordered by Governor and Secretary of State.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That from and after the passage of this act, no document or matter shall be printed at the expense of the State, except such as shall have been specifically authorized by the General Assembly, or such as is usual and necessary in the transaction of the public business, and shall be specifically directed in writing by the Governor and Secretary of State, to be printed for the public use.

Auditor not to draw warrant unless such order is produced.

SEC. 2. The Auditor of State shall, in no case, issue any warrant for the payment of expenses of printing, unless the specific authority therefor, above referred to, be first produced to him; and he shall file and preserve the orders for printing, so issued by the Governor and Secretary of State, after they shall have been produced to him, and shall append to his biennial report, a brief description and statement of the cost of all printing so done for the State, discriminating between that done by order of the General Assembly, and that so directed to be done by the Governor and Secretary of State.

Orders to be filed and preserved by said auditor.

Costs of public printing how reported by auditor.

Emergency.

SEC. 3. An emergency exists for the immediate taking effect of this act; the same shall therefore take effect and be in force from and after its passage.

## CHAPTER LXXXIX.

AN ACT to amend section fourteen of an act entitled "An act to provide for the more uniform mode of doing township business, prescribing the duties of certain officers in connection therewith, and to repeal all laws in conflict with this act," approved February 18th, 1859.

[APPROVED DECEMBER 19, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section fourteen of said act, which reads as follows, to wit:

## APPRAISEMENT OF REAL ESTATE.

["Section 14.] The trustees, at the time of settling with the board of county commissioners, as provided in section eleven of this act, shall file with said board an itemized statement, verified under oath, of his charges and services as trustee, upon which said commissioners shall allow him such reasonable compensation as they may deem just, not to exceed one dollar and fifty cents per day for all time necessarily employed, which shall be paid out of the funds of the proper township: Provided, however, that when such trustee has served but part of a day, he shall be allowed in payment only in proportion to the time spent," be and the same is hereby amended to read as follows, to-wit:

[SEC. 14.] The trustee, at the time of settling with the Board of County Commissioners, as provided in section eleven of this act, shall file with said board an itemized statement, verified under oath, of his charges and services as trustee, upon which said commissioners shall allow him such reasonable compensation as they may deem just, not to exceed two dollars and fifty cents per day for all time necessarily employed, which shall be paid out of the funds of the proper township.

Section 14 as amended. Trustee shall file itemized statement, under oath, of his charges.

Compensation of Trustee.

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SEC. 2. An emergency is hereby declared to exist for the immediate taking effect of this act, and, therefore, it shall take effect and be in force from and after its passage.

Emergency.

## CHAPTER XC.

AN ACT to legalize the action of the Board of County Commissioners of Vermillion county, and of the District and State Boards of Equalization in adopting the appraisalment of real estate of 1859 as the basis for the assessment of taxes for the year 1864, and each year thereafter till a new appraisalment shall be made.

[APPROVED DECEMBER 20, 1865.]

WHEREAS, The General Assembly of the State of Indiana passed an act entitled "An act to provide for the appraisalment of the real estate, and prescribing the duties of officers in relation thereto, approved December 21, 1858; and

Preamble.

WHEREAS, The first section of said act provides that the Boards of County Commissioners of each county within this State shall, at their first term after the passage and publication of the said act, or at a special session to be called immediately, appoint some suitable person, resident in said county, as appraiser of the real estate therein; and

**WHEREAS**, In accordance with the provisions of said section, the Board of Commissioners of Vermillion county appointed a citizen thereof to appraise the lands therein; and

**WHEREAS**, the said appraiser qualified according to law, and made appraisement of the real estate within said county, and returned a list of the lands so appraised to the auditor of the county, which said appraisement is known as the appraisement of 1859, and constituted the basis upon which the taxes within the said county have been assessed each year since the said assessment was made; and

**WHEREAS**, the second section of said act provides, that "at the annual election of October, A. D. 1863, and every five years thereafter, an appraiser shall be elected by the people of each county in the State, who shall, after the first day of January thereafter, proceed to discharge the duties required by said act;" and

**WHEREAS**, In accordance with the provisions of said section last above named, the people of Vermillion county "at the annual October election, A. D. 1863, elected an appraiser of the real estate therein, who, on the —— day of January, A. D. 1864, qualified as such, in manner required by law;" and

**WHEREAS**, The said appraiser thereafter wholly failed to appraise the lands in the said county; and

**WHEREAS**, By reason of the said failure the Board of County Commissioners adopted the said appraisement of 1859 as the basis upon which the taxes should be assessed for the year 1864, and each ensuing year thereafter, until a new appraisement should be made according to law; and

**WHEREAS**, The said action of the Board of County Commissioners was approved by the District and State Boards of Equalization; and

**WHEREAS**, Upon the said appraisement, adopted and approved as aforesaid, taxes have been assessed and collected in said county for the year 1864, except delinquent taxes; and

**WHEREAS**, The tax duplicate thereof for the year 1865, is now being made upon the said appraisement as a basis of taxation; therefore,

Acts of Board of  
Commissioners  
of Vermillion  
county and of  
Boards of Equal-  
ization to have  
full force and ef-  
fect of law, &c.

**SECTION 1.** *Be it enacted by the General Assembly of the State of Indiana*, That the action of the said Board of County Commissioners of Vermillion county, and of the said Boards of Equalization be, and the same are hereby, declared to have the full force and effect of law, the same as if the lands of the said county had been appraised by the said appraiser elected at the annual Octo-



ber election, A. D., 1863, and the taxes assessed upon the said appraisement for the year 1834, and each year thereafter, until a new appraisement shall be made, shall be due from and after the time heretofore prescribed by law for annual taxes to become due, and until paid shall be a lien upon the property, real and personal, of the person owing the same, and shall be collected in manner heretofore or that may hereafter be provided for the collection of taxes.

Taxes so assessed to be a lien upon property.

Taxes how collected.

SEC. 2. It is hereby declared that an emergency exists, and that this act shall be in force from and after its passage.

Emergency.

## CHAPTER XCI

AN ACT to amend section fifty-two (52) of an act entitled "An act to amend an act to authorize and regulate the business of general banking, passed the House and Senate of the General Assembly, the Governor's objection thereto notwithstanding, on the 3d day of March, 1855."

[APPROVED DECEMBER 20, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section fifty-two (52) of the above entitled amendatory act, which reads as follows, to-wit:

"SEC. 52. Any bank or banking association organized under the General Banking Law of this State, or hereafter to be organized, desiring to go into liquidation for the purpose of closing business, shall give public notice of that fact in two newspapers at Indianapolis and one published at the place, or nearest to the place, where such bank or banking association is located; and the auditor thereupon shall receive and cancel all the issues of such bank or banking association that may from time to time be presented by such association to him, and for every one hundred dollars thus canceled, he shall certify the same to the treasurer, who shall surrender to such bank or banking association, the amount of stock deposited to secure the same as often as such notes shall have been received and canceled, in sums large enough to cover the value of any one or more of the securities in the hands of the treasurer: *Provided*, That the treasurer in so surrendering such securities shall deliver to such bank or association securities not exceeding in value a fair average of those deposited by such bank or association as near as may be; and at the expiration of two years, after such bank or banking association has given the notices required in this section, including a notice to all holders of its notes, in circulation, to present them at said bank for payment, the treasurer shall surrender to such bank or association all its stocks or securities remaining deposited in his office. If such bank shall file a bond or undertaking signed by all the owners of its stock, or a bond signed by any stockholder, with security to be approved by the Auditor, conditioned for the prompt payment on demand of all its outstanding notes, if any such remain," be, and the same is hereby, amended to read as follows:

Sec. 52 recited.

Section 52 as amended.  
Banks desiring to close business to give public notice.

Auditor to cancel all issues of such banks, and for every \$100 canceled shall certify same to treasurer.

Treas. to surrender stock, &c.

Provided.

No suit upon bond to be maintained against administrators or executors of deceased stockholders, unless, &c.

**SEC. 52.** Any bank or banking association, organized under the general banking law of this State, or hereafter to be organized, desiring to go into liquidation for the purpose of closing up its business, shall give public notice of that fact in two newspapers in Indianapolis, and one published at the place, or nearest to the place, where such bank or banking association is located; and the auditor thereupon shall receive and cancel all the issues of such bank or banking association that may from time to time be presented by such association to him; and for every one hundred dollars thus canceled, he shall certify the same to the treasurer, who shall surrender to such bank or banking association the amount of stock deposited to secure the same, as often as such notes shall have been received and canceled, in sums large enough to cover the value of any one or more of the securities in the hands of the treasurer: *Provided*, That the treasurer, in so surrendering such securities, shall deliver to such bank or association securities not exceeding in value a fair average of those deposited by such bank or association, as near as may be; and at the expiration of two years, after such bank or banking association shall have given the notices required in this section, including a notice to all holders of its notes in circulation to present them to said bank for payment, the treasurer shall surrender to such bank or association all its stocks or securities remaining deposited in his office, if such bank or association shall file a bond or undertaking signed by all the owners of its stock, or a bond signed by any stockholder, or by any executor or administrator of a stockholder, with security to be approved by the auditor, conditional for the prompt payment on demand of all its outstanding notes, if any such notes remain unpaid: *Provided, however*, That no suit upon such bond shall be maintained, when the same shall have been given by any administrator or executor of a deceased stockholder, unless such suit be brought within the period of three years from the time such bond was given and approved by the auditor; or when three years shall have elapsed before the taking effect of this act, within one year thereafter.

## CHAPTER XCII.

AN ACT to amend section 143 of an act entitled "An act amendatory of an act to provide for the publication of delinquent taxes," approved May 31st, 1861.

[APPROVED DECEMBER 13, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section one hundred and forty-three of said act, which reads as follows :

"SEC. 143. He shall cause a copy of such list to be immediately published for four weeks successively, once in each week, in a newspaper having general circulation in his county, (if any be printed therein,) at a cost not to exceed thirty cents for each line of tabular description, valuation and taxes in such list; and in case the publisher of such newspaper should refuse to publish the same on the terms herein provided, it shall be the duty of the auditor to have said list printed in handbill form, on the best terms that can be had, three copies of which shall be posted up in public places in each township of his county, at least four weeks before the day of sale, to which shall be attached, and in like manner published, a notice that so much of said land as may be necessary to discharge the taxes, interest and charges thereon, or due from the owner thereof at the time of sale, will be sold at public auction at the Court-House in such county, on the first Monday in February next thereafter," to be amended to read as follows, to-wit :

Sec. 143 recited.

[SEC. 143.] He shall cause a copy of such list to be immediately published for four weeks successively, once in each week, in a newspaper having general circulation in his county, (if any be printed therein,) at a cost of not to exceed fifteen cents, for each insertion of every line of tabular description, valuation and taxes, in such list, and in case the publisher of such newspaper should refuse to publish the same on the terms herein provided, it shall be the duty of the auditor to have said list printed in handbill form, on the best terms that can be had, three copies of which shall be posted up in public places in each township of his county, at least four weeks before the day of sale, to which shall be attached, and in like manner published, a notice that so much of said land as may be necessary to discharge the taxes, interest and charges thereon, or due from the owner thereof at the time of sale, will be sold at public auction at the Court-House in such county, on the first Monday in February next thereafter.

Section 143 as amended.  
Printers' fees for publishing delinquent tax list.

When Auditor to have list printed in handbill form, &c.

[SEC. 2.] Whereas an emergency exists for the immediate taking effect of this act, therefore the same is declared to be in force from and after its passage.

Emergency.

## CHAPTER XCIII.

AN ACT to provide for the sale of certain lands belonging to the State of Indiana, in the counties of Jasper and Newton, and to give preemption to actual settlers thereon.

[APPROVED DECEMBER 12, 1865.]

Certain lands in Jasper and Newton counties to be sold.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the lands belonging to the State of Indiana, in the counties of Jasper and Newton, acquired by conveyance from Michael G. Bright, dated November 19th, 1860, and of Aquilla Jones, December 31st, 1860, shall be offered for sale at public auction, by the auditor and treasurer of the county in which said land may be situated, at the door of the court house in said counties, on a day to be fixed by said auditor and treasurer, not sooner than six nor later than eight months after the passage of this act, for cash in hand.

Auditor of State to make out description of lands, &c.

SEC. 2. It is hereby made the duty of the Auditor of State, within one month after the passage of this act, to make out and deliver to the auditor of Jasper county a description of said land in Jasper county, and to the auditor of Newton county a description of the said land in Newton county.

Auditor and treasurer to give notice of sale.

SEC. 3. It shall be the duty of the auditor and treasurer of said counties of Newton and Jasper, to give notice of the time and place of said sale, by publication in the Indiana State Journal and the weekly newspapers in said counties for four weeks successively before the day of sale.

Aud. and Treas. to sell lands at public sale in parcels.

SEC. 4. It shall be the duty of the auditor and treasurer of said counties to sell said lands at public auction, to the highest bidder, in forty acre tracts or as nearly so as the same can be, unless a less or greater quantity be caused by fractional section, in which case a quantity representing the sixteenth part of a section shall be sold in a body, be the same more or less than forty acres: *Provided*, that said lands are not to be sold for less than one dollar and fifty cents per acre, at the first time said lands are offered for sale.

Proviso.

Auditor to issue certificate of purchase.

SEC. 5. When any of said lands shall have been sold at said public sales, and the purchase money therefor has been paid over to the treasurer of the county in which the land is situate, and a receipt therefor presented to the auditor of said county, it shall be the duty of the said auditor to issue a certificate of purchase to the holder of said receipt, showing that the purchase money has all been

paid, and shall forthwith make out and forward to the Auditor of State a full return of all sales of said land. It shall be the duty of the Auditor of State, on the receipt of the return of sale and the presentation of said certificate, to make out and cause to be signed by the Governor of the State, and attested by the Secretary of State, a deed for all the lands contained in said certificate of purchase and reported in said return of sales.

Auditor of State to make out deed, &c.

SEC. 6. In all cases where any person, prior to the passage of this act, shall have settled and made permanent improvements on any of said lands by the erection of a dwelling house, or breaking and fencing, or cultivating not less than ten acres, with the *bona fide* intention of becoming a permanent resident thereon, and shall make satisfactory proof before the auditor and treasurer of said counties in which the lands are situate of such improvement and intention of residence, he or she shall be entitled to receive from the auditor a certificate of preëmption for not more than one hundred and sixty acres, which shall be adjoining as near as the same can be located, by paying to the auditor a fee of one cent per acre on the land so preëmpted as a fee for said certificate, and such preëmptioner, at any time before the day fixed by the auditor and treasurer for the public sale of said lands, shall be entitled to enter such preëmpted land at private sale at the rate of one dollar and fifty cents per acre, and shall pay the purchase-money to the treasurer, and receive a certificate from the auditor of the county, and deed from the Auditor of state, in the same manner as lands sold at public sale; but in case such preëmptioner shall fail to pay to the treasurer of said county, before the day of sale, the full amount of one dollar and fifty cents per acre for the land preëmpted by him or her, then he or she shall forfeit all right to said preëmpted land, and the same shall be sold in the same manner as the land not preëmpted.

In case improvements have been made, &c.

Pre-emptioner to receive certificate of pre-emption in certain cases, for a certain quantity of land, by paying certain sum of money.

Price of land pre-empted.

Pre-emptioner to receive deed.

Pre-emptioner failing to pay, shall forfeit right to pre-emption.

SEC. 7. All lands which shall remain unsold after they have been once duly offered at public sale, shall be sold by the auditor and treasurer of the county in which said land may be situated, at private sale, for not less than one dollar and fifty cents per acre; and all lands remaining unsold one year after they have been offered at public sale, may be sold by said officers at one dollar per acre; the purchase-money to be paid and deeds obtained in like manner as at public sale.

In case lands are not sold at public auction, they shall be sold at private sale.

SEC. 8. The treasurer shall retain two per cent. on all moneys received by him for said lands, as a compensation for himself and the auditor for their services, which shall be equally divided between them, and the balance shall be

Compensation of Treasurer and auditor.

paid over to the Treasurer of State within thirty days after the receipt thereof.

Treasurers of  
Jasper and New-  
ton counties  
shall file bond.

SEC. 9. The treasurer of Jasper and Newton counties respectively, before entering upon the duties required of them by this act, shall file a bond with the Auditor of State, to be approved by him, in such an amount as he may require for the faithful discharge of their duties, payable to the State of Indiana.

Emergency.

SEC. 10. That there is an emergency existing for the immediate taking effect of this act, it shall, therefore, be in force from and after its passage.

## CHAPTER XCIV.

AN ACT to amend sections one and two of an act entitled "An act to provide for the re-location of county seats, and for the erection of public buildings in counties in case of such re-location," approved March 2d, 1855.

[APPROVED DECEMBER 18, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That section first of the above entitled act, which reads as follows:

Sec. 1 recited.

"[SEC. 1.] *Be it enacted by the General Assembly of the State of Indiana,* That whenever two-thirds of the legal voters of any county in this State, shall, by written petition, request the Board of Commissioners of their county to re-locate the county seat of such county, designating in such petition the site where such re-location is desired, and shall procure the conveyance to such board by deed, with good title of two lots of ground, one containing not less than three acres, as a site for the Court-House, and the other containing not less than one-fourth of an acre, as a site for the County Prison, to be held by such board exclusively for those purposes, and shall deposit with said board the sum of fifty dollars for the payment of an architect, then such board shall proceed to have new county buildings erected thereon, and the county seat removed thereto, in the manner and upon the conditions set out in the following section," be, and the same is hereby, amended to read as follows:

Section 1 as  
amended.  
When co. seat  
may be removed.

[SECTION 1.] *Be it enacted by the General Assembly of the State of Indiana,* That whenever two-thirds of the legal voters of any county in this State, shall, by written petition, request the board of commissioners of their county to relocate the county seat of such county, designating in such petition the site where such relocation is desired, and shall procure the conveyance to such board, by deed, with good title, of two lots of ground, one containing not less

than two acres as a site for the court house, and the other containing not less than one-fourth of an acre, as a site for the county prison, to be held by such board exclusively for those purposes; and shall deposite with said board the sum of fifty dollars, for the payment of an architect, then such board shall proceed to have new county buildings to be erected thereon, and the county seat removed thereto, in the manner and upon the conditions set out in the following section: *Provided*, that no such removal or relocation of a county seat shall be made unless the same is removed at least three miles from its then location.

Lots for site of court house and county prison.

Fifty dollars to be deposited for payment of architect.

Co. seat must be removed at least three miles.

SEC. 2. That section second of said act, which reads as follows:

["Section 2.] When such petition is presented and the signatures thereto verified to be genuine by affidavit of some one or more persons, and said money deposited, the said board shall at once employ a competent architect to prepare plans, specifications, and estimates suitable for new county buildings, the buildings to be of brick or stone, and the county offices to be fire proof, or as nearly so as practicable, the cost of the whole not to exceed fifteen thousand dollars, unless requested by the petitioners, and such plans, specifications, and estimates shall be presented to said board at its next session," be and the same is hereby amended to read as follows:

Sec. 2 recited.

[SEC. 2.] When such petition is presented, and the affidavit of one or more persons, stating that the signatures to such petition are genuine, and that the petitioners are legal voters of such county, which affidavit shall be prima facie evidence that the facts so stated are true, and said money deposited, then said board shall at once employ a competent architect to prepare plans, specifications and estimates suitable for new county buildings, the buildings to be of brick or stone, and the county offices to be fire proof, or as nearly so as practicable, the cost of the whole not to exceed fifteen thousand dollars, unless requested by the petitioners, and such plans, specifications and estimates shall be presented to the said board at its next session: *Provided*, That the number of votes at the congressional election in such county next preceding the presentation of such petition to the Board of Commissioners, with ten per centum added thereto, shall be considered the whole number of votes of such county: *And provided further*, That the person or persons circulating such petition may, if necessary to satisfy him or them, that such petitioner or petitioners are legal voters of such county, administer an oath to such petitioner or petitioners, as to the fact that he or they are such legal voters: *Provided*, That any person opposed to such re-location may appear and defend against the application, and may controvert the facts which the applicants are bound to prove, and for that purpose may show

Section 2 as amended. Board to employ architect.

Character of buildings.

Cost of buildings.

Proviso. Congressional vote to be basis.

Persons circulating petitions may administer oaths.

Proviso.

that any of the petitioners are not voters or did not sign the petition or have afterwards signed a remonstrance against the same, and the fact of such signing of such remonstrance may be shown *prima facie* by the affidavit of any person who is a competent witness in other cases.

## CHAPTER XCV.

AN ACT to authorize the formation of companies for the detection and apprehension of horse thieves and other felons, and for mutual protection, and repealing all laws inconsistent therewith.

[APPROVED DECEMBER 21, 1865.]

Companies may be organized for detecting and apprehending horse thieves.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That any number of persons, citizens of the State of Indiana, not less than ten, may and they are hereby authorized to form themselves into a company for the purpose of detecting and apprehending horse thieves and other felons, and for mutual protection and indemnity against the acts of such horse thieves and felons as herein-after provided.

Articles of association, what they shall set forth.

Articles of association shall be filed, &c.

Shall be received as evidence.

Affidavit must be filed that signatures are genuine.

Company to be body politic, and may be sued, &c.

SEC. 2. Said persons desirous of forming such company, shall each subscribe articles of association, in which shall be set forth the name of such company, the residence of each member, the object of said association, and the number of years during which such company shall exist. Said articles of association shall be filed and recorded in the office of the county recorder of the county in which a majority of the members of such company may reside, and a certified copy of such record shall be received as *prima facie* evidence, in any court of this State, of the existence of said company, and of the membership of any person belonging thereto: *Provided*, That there shall be filed and recorded, with said articles, an affidavit of some member of such association that all the signatures thereto are genuine, according to the best of his knowledge and belief.

SEC. 3. Whenever said articles of association shall be filed and recorded as above provided, the said company, under the name and style designated in said articles, shall be a body politic and corporate, and by such name may sue and be sued in any court of competent jurisdiction, and may have and use a common seal.



SEC. 4. A majority of the members of such association shall have power to adopt a constitution and by-laws for their government, to designate and appoint such officers as they may deem proper, who shall hold their offices during the time and shall perform the duties required of them by such constitution and by-laws, and, with the consent of the board of commissioners of the county in which such articles are recorded, to designate any members of the association, who, in the pursuit and arrest of horse thieves and other offenders against the criminal laws of this State, shall have all the powers of constables.

Powers and duties of corporation.

SEC. 5. Said association may make and collect from its members such assessments as may be authorized by its constitution or by-laws, and may, if so provided in said constitution, indemnify its members for losses caused by horse thieves or other felons, and expend such moneys as may be deemed necessary in the pursuit and arrest and in procuring the conviction of felons, and to do all other acts and things consistent with the object of this act and of such association, and not inconsistent with such articles and by-laws, or with the laws and constitution of this State, or of the United States.

Corporation may make and collect assessments, &c.

SEC. 6. All laws and parts of laws inconsistent with this act are hereby repealed.

Repealing clause.

## CHAPTER XCVI.

AN ACT to amend the eighth section of an act entitled "An act to regulate and license the sale of spirituous, vinous, malt, and other intoxicating liquors, to prohibit the adulteration of liquors, to repeal all former laws contravening the provisions of this act, and prescribing penalties for violation thereof," approved March 5th, 1859.

[APPROVED DECEMBER 19, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That the eighth section of an act entitled "An act to regulate and license the sale of spirituous, vinous, malt, and other intoxicating liquors, to repeal all former laws contravening the provisions of this act, and prescribing penalties for violation thereof," approved March 5th, 1859, which reads as follows, to wit:

["Section 8.] A license granted under the provisions of this act shall not authorize the person so licensed to sell or barter any intoxicating liquors on Sunday, nor to any person under the age of twenty-one years, nor to a person or persons in a state of intoxication, nor upon the day of

any State, county, township, or municipal election, in the township or city where the same may be holden," be and the same is hereby amended so as to read as follows, to wit:

Section 8 as amended.  
Penalty for selling liquor on Sunday or election days.

[SEC. 8.] Any person being licensed under the provisions of this act, who shall sell or barter, directly or indirectly, any intoxicating liquors on Sunday, or upon the day of any State, county, township, or municipal election in the township or city where the same may be holden, shall be fined not less than ten nor more than fifty dollars.

## CHAPTER XCVII.

AN ACT to enable common carriers to dispose of unclaimed freight and baggage.

[APPROVED DECEMBER 21, 1865.]

When common carrier may sell freight or baggage.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That when any freight, or any baggage of passengers has been conveyed by a common carrier, to any point in this State, and shall remain unclaimed for the space of three months, at the place to which it is consigned or checked, and the owner, whether known or unknown, fails within that time, to claim such freight or baggage and to pay the proper charges, if any there be against it, then it shall be lawful for such common carrier to sell such freight or baggage at public auction, offering each box, bale, trunk, valise, or other article separately as consigned, or checked.

Manner of sale.

Notice shall be given of place of sale, &c.

SEC. 2. Sixty days' notice of the time and place of sale and a descriptive list of the articles to be sold, with the names, numbers, or other marks found thereon, shall be posted up in three public places of the county where the sale is to be made, and one on the door of the depot, or warehouse, if any, where the goods are; and shall also give notice in at least one paper in the county for sixty days before sale, and out of the proceeds of such sale the carrier shall pay the proper charges on such freight, or baggage, including costs for storage for the previous three months, and hold the overplus, if any, subject to the order of the owner at any time within five years, on proof of ownership, made by the affidavit of the claimant or his duly authorized agent or attorney. Also, after five years, all sums of money remaining unclaimed to be paid into

Charges and costs to be paid, and overplus to be retained, &c.

Money unclaim-

the county treasury, to be placed to the account of common schools. ed to be paid into county treasury.

SEC. 3. The carrier shall keep a copy of the notice, a copy of the sale bill, and the expenses thereof proportioned to each article sold, and also the oath of the claimant of the residue of the proceeds as aforesaid, and shall furnish an inspection of the same, and, if required, copies thereof, to any one, on payment of the proper charges therefor. Carrier shall keep copy of notice, &c.

SEC. 4. If any perishable property or live stock shall be so conveyed, either as freight or baggage, as aforesaid, and remain unclaimed until in danger of great depreciation, or such live stock be falling away because the carrier had not facilities to feed and water the same, then the carrier may, after the expiration of five days from the time said property is conveyed to the place to which it is consigned, or checked, sell at private sale, or auction, without giving the ten days' notice, for the best price it will bring and apply the proceeds as aforesaid. In case property consists of live stock or is perishable.

SEC. 5. There being no statute in this State on the subject, it is deemed that an emergency exists for the immediate taking effect of this act, and it shall, therefore, be in force from and after its passage. Br. emergency.

## CHAPTER XCVIII.

AN ACT to provide for the care and treatment of the incurable insane of the State of Indiana, and matters properly connected therewith.

[APPROVED DECEMBER 21, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That in addition to the duties and powers heretofore conferred by law upon the Commissioners of the Indiana Hospital for the Insane, it shall also be their duty, as soon as the necessary arrangements and buildings therefor can be made and provided in accordance with the provisions of this act, to take charge of and provide for the incurable insane of the State of Indiana in the same manner, as nearly as may be practicable, as the insane of the State are by existing laws required to be cared and provided for. Commissioners of Insane Hospital to take the charge of and provide for incurable insane persons.

SEC. 2. That an appropriation of thirty-five thousand dollars be and the same is hereby, made out of any moneys in the treasury not otherwise appropriated, to be used as hereinafter directed, in the erection of a suitable building in Appropriation for erection of building.

connection with the present Hospital for the Insane, with sufficient size and capacity to accommodate — persons considered incurably insane, of which the internal plan and arrangement shall be as nearly as practicable in harmony with the present Hospital aforesaid.

Who to constitute Board of Commissioners for erection of said building—their duty.

SEC. 3. That the commissioners aforesaid, together with the acting Governor and the Treasurer of State, shall constitute a Board of Commissioners for the erection of said building, and it shall be their duty to advertise within sixty days after the taking effect of this act for sealed proposals for the erection and completion thereof in three of the most widely circulated papers of the State for thirty days, or longer if they deem it best, and to contract with the person or persons offering the best and lowest bid, provided they deem such bid reasonable, in such manner as to secure the performance of such contract in the most prompt manner, without delay, and without any claim or demand whatever for extra or other additional compensation than that stipulated for in such contract, and all bonds or obligations taken by said board to secure the performance of said contract shall be made payable to the State of Indiana.

Appropriation, how drawn.

SEC. 4. That in the progress of the completion of said contract, and the erection of said buildings, the appropriation aforesaid shall be drawn from the State Treasury to the extent required, only on warrants of said board, which shall be signed by at least five of the individual members thereof, and for their services as such board, said commissioners shall receive no compensation except that already given them by law.

How incurable insane persons shall be admitted into said hospital.

SEC. 5. That the applications and proceedings necessary to secure the admission of incurable insane persons to said hospital, when completed for them, shall be the same as those now required by law to secure the admission of insane persons to the present Hospital for the Insane, or as nearly as the same are applicable, and such other regulations not inconsistent therewith, as may be reasonable and necessary, may be prescribed from time to time by the Commissioners of the Hospital for the Insane.

Emergency.

SEC. 6. It is hereby declared that an emergency exists for the immediate taking effect of this act, therefore it shall be in force from and after its passage.

## CHAPTER XCIX.

AN ACT to amend section thirty of an act regulating the fees of officers, and repealing former acts in relation thereto, approved March 2, 1855.

[APPROVED DECEMBER 20, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That section thirty of said act, which reads as follows to wit:

“Section 30. The board of commissioners of each county shall furnish the necessary record books, fuel, and stationery for the offices of the auditor, treasurer, recorder, and the clerks of the Circuit and Common Pleas Court of their respective counties, at the expense of said county, and shall also provide safe and suitable offices for such officers,” be and the same is amended to read as follows: Sec. 30 recited.

SEC. 30. The board of commissioners of each county shall furnish the necessary record books, fuel, and stationery for the offices of auditor, treasurer, recorder, and clerk, and may, in their discretion, furnish the same to the sheriff of the Circuit and the Common Pleas Court of their respective counties, at the expense of such county, and shall also provide safe and suitable offices for such officers. Section 30 as amended.  
What Board of Commissioners to furnish county officers with.

## CHAPTER C.

AN ACT to amend the first section of an act entitled “An act for the better protection of religious meetings, agricultural fairs, and other lawful assemblages of the people,” approved March 3d, 1859.

[APPROVED NOVEMBER 30, 1865.]

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That the first section of an act entitled “An act for the better protection of religious meetings, agricultural fairs, and other lawful assemblages of the people,” approved March 3d, 1859, which reads as follows, to wit:

“[Section 1.] That if any person shall erect, bring, keep, continue, or maintain any booth, tent, wagon, huckster shop or other place for the sale of intoxicating liquors, cider, beer, or other drinks, or for the sale of any other article whatever, or shall sell or give away any intoxicating liquors, Sec. 1 recited.

cider, beer, or other drinks, or any other article whatever, or shall keep or exhibit any gaming table, roulette, shuffle board, faro bank, nine-pin or ten-pin alley, or billiard table or any other gaming or wagering apparatus whereby any money or article of value may be lost or won; or any person who may be the owner or proprietor of any real property, who shall rent or permit the same to be occupied for any such purpose, within one mile of any collection of any inhabitants of this State met together for worship, or any agricultural fair or exhibition, or who shall in any way interrupt, molest, or disturb such religious meeting or agricultural exhibition, or any person present thereat, or going to or returning therefrom, or who shall molest or disturb any meeting of inhabitants of this State met together for any lawful purpose, shall be fined in any sum not more than twenty-five dollars, nor less than five dollars," be and the same is hereby amended to read as follows, to wit:

Section 1 as amended.  
What prohibited at religious meetings, fairs, and other lawful assemblages.

[SEC. 1.] That if any person shall erect, bring, keep, continue, or maintain any booth, tent, wagon, huckster shop, or other place, for the sale of intoxicating liquors, cider, beer, or other drinks, or for the sale of any other article whatever, or shall sell or give away any intoxicating liquors, cider, beer, or other drinks, or any other article whatever, or shall keep or exhibit any gaming table, roulette, shuffle board, faro bank, nine-pin or ten-pin alley, or billiard table, or any other gaming or wagering apparatus whereby any money or article of value may be lost or won, or any person who may be the owner or proprietor of any real property, or who shall rent or permit the same to be occupied for any such purpose, within one mile of any collection of any inhabitants of this State met together for worship, or any agricultural fair or exhibition, or who shall, by any loud and unnecessary talking or hollowing, or by any threatening, abusive, profane, or obscene language, or violent actions, or by any other rude behavior, interrupt, molest or disturb such religious meeting or agricultural fair or exhibition, or any person present thereat, or going to or returning therefrom, or who shall in like manner molest or disturb any meeting of inhabitants of this State met together for any lawful purpose, shall be fined in any sum not more than twenty-five dollars nor less than five dollars.

Penalty for violating provisions of this act.

## CHAPTER CL

AN ACT to authorize the construction of warehouses for the inspection, storage, and sale of tobacco.

[APPROVED DECEMBER 12, 1865.]

Corporations may be formed for constructing warehouses in which to inspect

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana,* That any number of persons may form themselves into a corporation for the purpose of con-

structing warehouses in which to inspect, store, and sell tobacco, by complying with the following requirements: They shall unite in articles of associations, setting forth the name which they assume, the place at which they propose to construct the warehouse, the amount of capital stock, the number of shares into which it is divided, the names and places of residence of the subscribers, and the amount of stock taken by each, shall be subscribed to said articles of association. Whenever the stock subscribed shall amount to the sum of six thousand dollars, copies of the articles of association shall be filed in the office of the recorder of each county in which the warehouse is to be constructed, and shall, from that time, be a corporation known by the name assumed in its articles of association.

and store tobacco. Articles of association shall show what

SEC. 2. Not less than five nor more than seven directors shall be elected by the stockholders of every such corporation, who shall hold their office for one year, and until their successors are in like manner elected and installed. Notice of the first election for directors shall be given by two weekly publications in some newspaper of the county, or if no such paper is published therein, then in an adjoining county, or the county nearest thereto wherein such paper is published. Said directors shall be elected by a majority of the votes given, either by the stockholders present, or by written proxy from those not present; and each stockholder shall be entitled to one vote for each and every share he may hold in the capital stock of the corporation at the time of such election.

Directors, number of—terms of office. Elections, notice of and how governed.

SEC. 3. Any such company shall be entitled to all the privileges and immunities of the laws of this State as a body politic and corporate, such as contracting and being contracted with, suing and being sued, pleading and being impleaded, defending and being defended in any court of competent jurisdiction; they may have a common seal, and may make and alter the same at pleasure.

Said company to have privileges, &c., of body politic.

SEC. 4. For the purpose of locating and constructing any such warehouse, it shall be lawful for such company to lease, purchase, hold, use, and convey any property or estate whatsoever, real or personal, that may by such company be deemed necessary to the prosecution of their designs.

Company may lease, purchase, and convey real estate.

SEC. 5. It shall be lawful for the directors to require payments from subscribers to the capital stock of the sums subscribed by them, at such times and in such proportions, and on such conditions, as they shall see fit, under the penalty of the forfeiture of their stock, and of all previous payments thereon, or under such other penalty or forfeiture as such company may, by by-laws, prescribe; and they shall give notice of the payments thus required, and of the

When directors may require payment from subscribers.

Notice to be given.

time and place when and where, at least thirty days previous to the time when such payment is required to be made, in a newspaper printed in the county, or if no such paper is published therein, then in an adjoining county, or the county nearest thereto wherein such paper is published.

Shares of corporation to be deemed personal property.

Directors may provide for increase of capital stock.

Directors may fill vacancies, and may make and publish by-laws and ordinances.

Emergency.

SEC. 6. The shares of the corporation shall be deemed personal property, and shall be transferable in the manner prescribed by the by-laws; and any person becoming a shareholder by assignment, shall succeed to all the rights and liabilities of his assignor, and the directors may provide for any increase of capital stock that may be deemed advantageous to the corporation, provided the whole shall not exceed fifty thousand dollars.

SEC. 7. Any stock company may fill all vacancies occurring in their board of directors, by the remaining directors, at any of their meetings, and may make, enact, and publish any and all ordinances and by-laws which they may deem proper, not inconsistent with the laws of this State.

SEC. 8. This act to take effect and be in force from and after its passage.

## CHAPTER CII.

AN ACT defining the crime of embezzlement, and prescribing the punishment therefor.

[APPROVED DECEMBER 21, 1865.]

Parties referred to in this act.

What acts to constitute embezzlement.

SECTION 1. *Be it enacted by the General Assembly of the State of Indiana*, That every president, director, cashier, secretary, treasurer, teller, clerk, book-keeper, agent, or other employe of any bank, banking company, corporation, or association, and every president, director, secretary, treasurer, conductor, book-keeper, clerk, agent, or other employe of any railroad company, corporation, or association, or of any insurance company, turnpike or plank road company, or of any telegraph company or association, and every clerk, treasurer, cashier, book-keeper, or other person in the employment of any merchant, trader, manufacturer, or person, company, or association of persons engaged in any business whatever, who, while in such employment as aforesaid, shall purloin, secrete, or in any way whatever fraudulently appropriate to his or her own use, or to the use of others, or knowingly permit any other person to take,



purloin, secrete, or in any way to appropriate to his or her use, or to the use of others, any of the moneys, coins, bills, notes, credits, choses in action, or other property or article of value belonging to or deposited with any such bank, banking company or association, or any such railroad company, corporation or association, or any such insurance company, telegraph company, turnpike or plank road company or association, or any such merchant, trader, manufacturer, or person, company, or association of persons engaged in business as aforesaid, in whose employment he or she may be, shall be deemed guilty of embezzlement, and upon conviction thereof and presentment or indictment, shall be fined in any sum not less than one nor more than five hundred dollars, and be imprisoned at hard labor in the State prison not less than two nor more than twenty years.

SEC. 2. As there is no law punishing the offense aforesaid, an emergency is hereby declared to exist for the taking effect of this act, therefore the same shall be in force from and after its passage. Emergency.

JOINT RESOLUTIONS  
OF THE  
GENERAL ASSEMBLY OF INDIANA.

JOINT RESOLUTION No. 11.

**A JOINT RESOLUTION** for the relief of George W. Archer, refunding to him the purchase-money and interest thereon paid for certain real estate sold as Swamp Land by the State, when the title was in one Michael John.

[APPROVED DECEMBER 19, 1865.]

**WHEREAS**, George W. Archer, of the county of Clay, filed with the Secretary of State the certificate of the Auditor of State for the purchase and full payment, according to the provisions of an act of the General Assembly of the State of Indiana, approved May 29, 1852, entitled "An act to regulate the sale of the Swamp Lands donated by the United States to the State of Indiana, and to provide for the draining and reclaiming thereof, in accordance with the condition of said grant," and also of the several acts supplemental thereto, for the following real estate situate in the county of Parke and State of Indiana, to-wit: The south-east quarter of the south-west quarter of section number thirty-five, in township number fourteen north, of range seven west, containing forty acres, for the consideration of fifty dollars, which was paid on the 29th day of August, A. D., 1853.

**AND WHEREAS**, It has recently been ascertained that the said State of Indiana was not invested with the title to said real estate, but that the same belonged to one Michael John, of the county of Butler, and State of Ohio, by letters patent of the United States, issued on the first day of October, A. D., 1840, and that by virtue of said right the said Michael John has taken possession and holds said real estate as against the said George W. Archer: Therefore,

**SECTION 1.** *Be it resolved by the General Assembly of the State of Indiana*, That the Auditor of State is hereby authorized and directed to issue a warrant, payable out of the State Treasury, to the said George W. Archer, for the consideration of the purchase of said real estate, to-wit,

the sum of fifty dollars, with interest thereon at the rate of six per cent. per annum, since the 29th of August, 1853, to be in full settlement between the said George W. Archer and the said State of Indiana by reason of the premises.

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### JOINT RESOLUTION No. 20.

A JOINT RESOLUTION instructing our Senators and requesting our Representatives in Congress, to secure the passage of a law, by which the soldiers and officers of the war for the suppression of the rebellion, shall be placed, as near as possible, upon an equal footing in the bounty, or bounty and monthly pay, as is just and right, according to the length of time each has served the country in said war, and recommending the granting of pensions to soldiers of the late war of 1812, who have remained loyal to the country.

[APPROVED DECEMBER 20, 1865.]

WHEREAS, Great injustice is complained of by the soldiers who first volunteered at, or shortly after, the breaking out of the rebellion, that they have not, and can not, under the present acts of Congress, receive, or be entitled to, as much pay or bounty as the troops who volunteered, or went into the service, after they did, under subsequent acts of Congress for the raising of additional volunteers; and believing as we do, that those soldiers who first volunteered their services for the overthrow of the rebellion, performed equally as good service to the country as those who volunteered at a later period, enduring much greater suffering, at least as to the time of said service: Therefore,

*Be it resolved by the General Assembly of the State of Indiana,* That our Senators be instructed, if consistent with the general interest of the country, and our Representatives in Congress be requested, to do all in their power to secure the passage of an act of Congress, which will allow or grant such additional bounty or other pay to the volunteers, their wives, or children, who went into the service prior to the passage of any act of Congress increasing the pay and bounty to those who volunteered afterwards, and who received such additional pay and bounty; and, also, granting pensions to all surviving soldiers of the war of 1812, who have remained loyal to the Government of the United States.

## ERRATUM.

Chap. 1, sec. 34, 46th specification, line 10, for "by any such city," read "to any such city."

Page 20, sec. 36, line 7, for "quantity" read "granting."

Page 29, sec. 65, line 10, for "graded and paved" read "graded or paved."

Page 30, sec. 65, line 34, for "that" read "than."

Page 32, sec. 68, line 54, for "manner" read "matter," and line 56 of said section for "court and jury" read "court or jury."

Chap. 11, page 95, sec. 51, line 3, for "may" read "shall."

Page 112, chap. 18, title, for "prescribing their powers" read "prescribing their duties."

Page 132, sec. 1, line 4, for "the entire line" read "their entire line."

Page 146, chap. 40, sec. 1, line 11, for "belongs" read "belonged."

Page 181, sec. 11, line 4, for "such sheriff" read "the sheriff."

STATE OF INDIANA, }  
OFFICE OF SECRETARY OF STATE, }

I. NELSON TRUSLER, Secretary of State for the State of Indiana, certify that I have compared the within and foregoing printed with the enrolled acts and joint resolutions, from which the same were taken, now on file in my office, and find them to be correctly printed. Words included [thus] were by me inserted to aid the sense.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of the said State of Indiana, at the city of Indianapolis, this 10th day of February, A. D. 1866.

NELSON TRUSLER,  
Secretary of State.

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